

MAINE STATE LEGISLATURE

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February 11, 1980

Honorable Walter S. Hichens
Maine Senate
State House
Augusta, Maine 04333

Dear Senator Hichens:

This is in response to your inquiry as to whether the Joint Standing Committee on Performance Audit exceeded its authority under the "Sunset Act," 3 M.R.S.A. § 501, et seq., by submitting extensive legislation on the Department of Agriculture pursuant to its evaluation of that Department.

We are of the opinion that the question you raise is an internal matter for the Legislature to resolve. For that reason, we do not deem it necessary to scrutinize the legislation proposed by the Committee.

The scope of the review to be conducted by the Committee on Performance Audit is set out in 3 M.R.S.A. § 505(1).

1. Objectives. For each department and independent agency which has submitted a justification report, the Joint Standing Committee on Performance Audit shall evaluate the analysis in the report and may conduct its own analysis which shall include, but shall not be limited to, an analysis to the extent to which the objectives of the department or independent agency have been reached. . . .

As the above language indicates, there are no specific limitations on the power of the Committee to evaluate a department or agency.

Under subsection 2 of section 505, the Committee on Performance Audit is also empowered, and arguably even required, to submit legislation pursuant to its evaluation.

2. Submittal of analyses. The Joint Standing Committee on Performance Audit shall submit to the Legislature the evaluations and analyses prepared pursuant to this section of the departments and independent agencies listed in section 507 and its recommendations and any legislation required to implement them according to the following schedule: . . . [emphasis supplied]

The sole restriction, then, on the legislation which may be submitted is that it be necessary to implement the Committee's evaluations and analyses. Since, as noted above, the Committee's power to evaluate is set forth in rather general terms, it is difficult to read the Sunset Act as imposing any restrictions on the Committee's authority to propose legislation other than the requirement that there be a nexus between the legislation and the Committee's evaluation.^{1/}

Perhaps in anticipation of the fact that the procedure for administering the Sunset Act would require further amplification and clarification, the Legislature established a process to accomplish that end. Under that process, the Legislature reserved to itself the right to determine how the Act should be administered. Thus, 3 M.R.S.A. § 509 provides:

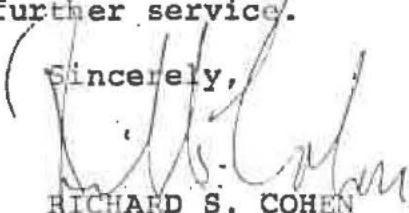
The Legislative Council shall be responsible for and shall, subject to the approval of the Legislature, issue rules necessary for the efficient administration of this chapter.

^{1/} There is nothing in the legislative history which conflicts with this interpretation of the statute. The power of the Committee to submit legislation was specifically added to the Sunset Act in 1978 by Committee Amendment "A" to L.D. 2189. Thus, it was clearly a conscious decision by the Legislature to allow the Committee on Performance Audit to submit legislation pursuant to its responsibilities under the Act.

Pursuant to section 509, as well as to general principles of parliamentary procedure,^{2/} it is for the Legislature to determine whether legislation submitted by the Committee on Performance Audit falls within the scope of the Committee's authority.

I hope this information is helpful. Please feel free to call on me if I can be of any further service.

Sincerely,


RICHARD S. COHEN
Attorney General

RSC/ec

^{2/} See Mason, Manual of Legislative Procedure, § 615(3), which provides that "[c]ommittees are but instruments of the body appointing them, and their function is to carry out the will of that body.