

# MAINE STATE LEGISLATURE

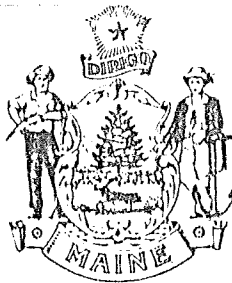
The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

80-103

RICHARD S. COHEN  
ATTORNEY GENERAL



STEPHEN L. DIAMOND  
JOHN S. GLEASON  
JOHN M. R. PATERSON  
ROBERT J. STOLT  
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

June 17, 1980

John Joseph, Director  
Office of Energy Resources  
55 Capitol Street  
Augusta, Maine 04330

Dear Mr. Joseph:

This letter responds to your inquiry as to whether current members of the State Energy Resources Advisory Board (the "Board") may serve after July 3, 1980, the effective date of P.L. 1979, c. 652, which repealed and replaced the prior statute governing the terms of Board members. For the reasons explained below, we have concluded that the terms of all Board members should begin on July 3, 1980, and that the member in question may be replaced on that date.

In order to resolve your question, a brief recitation of the history of the Act is necessary. Section 5006 of the Maine State Energy Resources Act, 5 M.R.S.A. §5001 et seq., was enacted by P.L. 1973, c. 770, §2 (effective March 29, 1974), and empowered the Governor to appoint a State Energy Resources Advisory Council. The Council was to be comprised of one member each from the House of Representatives, the Senate and the Public Utilities Commission, to serve ex officio; in addition, there were 10 other members (directors or commissioners of various state departments) who also served ex officio. Nine individuals from outside state government were to be selected to serve for four-year terms and could be reappointed for four years, except that those first appointed were to serve only 2 or 3 years in order to create a system of staggered four-year terms.

P.L. 1975, c. 587 repealed 5 M.R.S.A. §5006 as enacted by P.L. 1973, c. 770, §2, thereby abolishing the 22-member State Energy Resources Advisory Council, and replaced it with a nine-member State Energy Resources Advisory Board. The Board was to consist of one member each from the House of Representatives, the

John Joseph, Director  
June 17, 1980  
Page 2

Senate, and the Public Utilities Commission to serve ex officio; and six members from outside state government to be appointed by the Governor "with the advice and consent of the Council".<sup>1</sup> The Act was silent as to the length of the members' terms.

P.L. 1979, c. 652 specifies the length of the respective member's terms and sets forth a system for initial appointments which will ultimately provide staggered four-year terms for the Board members. The Statement of Fact on the original Legislative Document also makes it clear that the purpose of the Act was to provide staggered terms for Board members.<sup>2</sup> This mechanism for maintaining staggered terms of office can only operate if all the initial terms begin on a common date and all subsequent terms of office commence and expire by reference to the system of rotation thus established.

The Act does not specifically fix a commencement date for terms of office on the Board. However, the legislative directive that the Board's term be staggered requires by implication that all terms begin on a common date, which is not necessarily the date of the appointment of the member. Thus, the most reasonable construction of the Act is that terms for the staggered Board be fixed in reference to the effective date of the most recent legislation reconstituting the Board (July 3, 1980).<sup>3</sup> Thus, the terms of all current Board members must expire on that date, and such members may or may not be reappointed and existing vacancies on the Board may be filled at that time.

Sincerely,



CABANNE HOWARD

Senior Assistant Attorney General

CH:njm

---

<sup>1</sup>P.L. 1975, c. 771, §91 deleted the reference to the council.

<sup>2</sup>Statement of Fact, Legislative Document No. 1838, 109th Maine Legislature.

<sup>3</sup>See April 27, 1979, opinion of this office to Senator Gerald P. Conley (concerning membership of the Maine Labor Relations Board).