

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

August 8, 1983

Honorable Judy C. Kany
Maine Senate
State House
Augusta, Maine 04333

Dear Senator Kany:

You have asked whether the Joint Select Committee on Job Training of the Legislature can review, overrule, or modify the recommendations of the State Job Training Coordinating Council or the decisions of the Governor concerning the designation of "service delivery areas" made pursuant to Section 101 of the Federal Job Training Partnership Act, P.L. 97-300.^{1/} For the reasons which follow, it is the opinion of this Department that the Legislature has not empowered the Select Committee to act in other than an advisory capacity.

The Federal Job Training Partnership Act, P.L. 97-300, was enacted in 1982 for the purpose of providing job training to economically disadvantaged persons. The funds provided for this purpose, under the Act, are granted to states to be further allocated to "service delivery areas" to be designated

^{1/} You have also asked whether Section 126 of the Federal Job Training Partnership Act limits the authority of the state Legislature to interfere with the service delivery area determination process. However, in view of this Department's response to your primary inquiry that the Legislature has not so interfered, it is unnecessary to answer this question, which raises subtle and complex issues regarding the relationship between the federal and state governments.

by the Governor of each state after receiving a proposal on the establishment of such areas from the state's Job Training Coordinating Council.

At its 1983 session, the Maine Legislature enacted P.L. 258, 26 M.R.S.A. § 2001, et seq., entitled "AN ACT Governing State Participation in the Federal Job Training Partnership Act", for the purpose of implementing the federal act. The Maine Act first establishes a Job Training Partnership Fund to receive money from the federal government pursuant to the federal act. 26 M.R.S.A. § 2002. It then authorizes the Joint Select Committee on Job Training of the Legislature to review the actions of the various elements of the state government in making allocations from the Fund, including the actions of the Governor and the Job Training Coordinating Council. 26 M.R.S.A. § 2004. The Committee's role in this process, however, was clearly limited to an oversight function of reviewing and commenting upon these actions in connection with the implementation of the federal act. As the Statement of Fact of the Maine Act stated, the Committee:

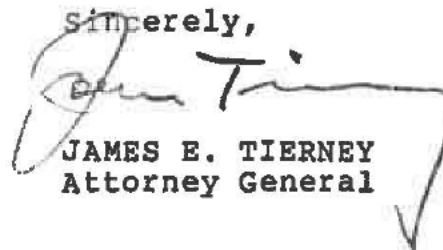
may review the budgets of grant recipients and make written comments to the recipients, private industry council, the State Job Training Coordinating Council, the Governor or the Legislative committee having jurisdiction over allocation of funds. It may hold oversight hearings in each service delivery area, shall review and comment on all plans, policies and standards proposed by the Council, Governor, or other agencies for final approval and shall receive all reports prepared in connection with implementation of the Act. The Committee may review the procedures and findings of the state's evaluation of the effectiveness of programs, review policies and plans designed to insure coordination of programs and agencies and exercise general oversight over the Act's implementation. L.D. 1512, Statement of Fact (111th Legis. 1983) (emphasis added).

The Committee's powers, thus, are advisory only. It does not have authority under state law to change or modify the State Job Training Coordinating Council's recommendations to the Governor or the plans approved and decisions made by the Governor.

This conclusion is consistent with the legislative history of P.L. 258. The original version of the Act, L.D. 1239, "AN ACT to Provide Authority to the Department of Labor to Receive and Extend Federal Funds Pursuant to the Federal Job Training Partnership Act," provided for "legislative review and approval of the expenditure of federal funds expected" pursuant to the federal act. L.D. 1239, Statement of Fact (111th Legis. 1983) (emphasis added). Since any suggestion of approval of such expenditure is notably absent from the version of the bill which was enacted, it can only be concluded that the Legislature consciously intended to deny such powers to the Committee.^{2/}

I hope this answers your questions.

Sincerely,



JAMES E. TIERNEY
Attorney General

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^{2/} In reaching this conclusion, this Opinion should not be read to suggest that if the Legislature had sought to do so, it could, within the Constitution, give the power of approval over executive decisions to one of its own committees. As this Department has frequently indicated, the Legislature may not delegate legislative power to a subdivision of itself, but may act only in conformity with the constitutionally established procedures for the passage of legislation. Op.Me.Att'y Gen. 83-5; Op.Me.Att'y Gen. 76-215. See Immigration & Naturalization Service v. Chadha, 51 U.S.L.W. 4907 (U.S. June 23, 1983).