

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2236

S. P. 780

In Senate, January 2, 1974

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Richardson of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT Relating to Duties of the Attorney General.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 5, § 191, amended. The first sentence as amended, and the 5th sentence of section 191 of Title 5 of the Revised Statutes, are amended to read as follows:

The Attorney General, a deputy, assistant, or staff attorney shall appear for the State, ~~the Secretary of State, the Treasurer of State, the Bank Superintendent, the Insurance Superintendent~~ the head of any ~~other~~ state department, the head of any state institution and the state boards and commissions in all civil actions and proceedings in which the State is a party or interested, or in which the official acts and doings of said officers are called in question, in all the courts of the State; and in such actions and proceedings before any other tribunal when requested by the Governor or by the Legislature or either branch thereof.

Said officers, boards and commissions shall not act at the expense of the State as counsel ~~in any action or proceedings in which the State is interested,~~ nor employ private counsel except upon prior written approval of the Attorney General.

Sec. 2. R. S., T. 5, § 191, amended. Section 191 of Title 5 of the Revised Statutes, as amended, is further amended by adding after the 5th sentence, the following new sentence:

In all instances where the Legislature has authorized an office board or commission to employ private counsel, the Attorney General's written approval is required as a condition precedent to such employment.

Sec. 3. R. S., T. 5, § 195, amended. Section 195 of Title 5 of the Revised Statutes, as amended by sections 11 and 12 of chapter 585 of the public laws of 1973 is further amended to read as follows :

§ 195. Opinions on questions of law

The Attorney General shall give his written opinion upon questions of law submitted to him by the Governor and Council, ~~Secretary of State, Treasurer of State, Bank Superintendent, Insurance Superintendent, State Auditor~~ or head of any other state department, or any of the state boards or commissions or by either branch of the Legislature or members of the Legislature on pending legislative matters only.

Sec. 4. R. S., T. 5, § 196, repealed and replaced. Section 196 of Title 5 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof :

§ 196. Deputies and assistants ; appointment and duties

The Attorney General may appoint one or more deputy attorneys general, Assistant Attorneys General and staff attorneys who shall serve during the pleasure of the Attorney General or until their successors are duly appointed and qualified. Their offices shall be at the Capitol and they may perform all the duties required of the Attorney General and such other duties as the Attorney General may delegate to them. The Attorney General may appoint such research assistants with such powers and duties as he may delegate. Research Assistants may perform such duties as may be delegated to them by the Attorney General, including such activities as are authorized by Title 4, section 807. The compensation of research assistants shall be fixed by the Attorney General. The compensations of the deputy attorneys general, staff attorneys and assistant attorneys general shall be fixed by the Attorney General with the approval of the Governor and Council, but such compensations shall not in the aggregate exceed the amount appropriated therefor.

Sec. 5. R. S., T. 5, § 198, amended. Section 198 of Title 5 of the Revised Statutes is amended to read as follows :

§ 198. Additional assistant attorneys general, clerks or attorneys may be paid from moneys collected by department

Whenever the Attorney General shall appoint any additional assistant attorneys general or staff attorneys as authorized under section 196, or shall employ additional clerks as provided by section 197, or shall employ attorneys-at-law to collect claims due the State, the compensation of such assistants, staff attorneys, clerks or attorneys, as approved by the Governor and Council, may be paid, if the Governor and Council so direct, from moneys thus collected by the Department of the Attorney General.

Sec. 6. R. S., T. 5, § 199, amended. The 5th sentence of section 199 of Title 5 of the Revised Statutes, as amended by section 2 of chapter 53 of the public laws of 1969, is further amended to read as follows :

Any or all of the powers and duties enumerated in this ~~section~~ chapter may, at the discretion of the Attorney General, be delegated to and performed by,

any deputy attorney general ~~or any~~, assistant attorney general **or staff attorney**.

STATEMENT OF FACT

The purpose of this bill is reflected in the title and also requires state departments and boards employing private counsel to have prior written approval of the Attorney General.