

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Implement the Recommendations of the Right To Know Advisory Committee Creating the Public Access Ombudsman

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

Sec. 1. 5 MRSA §200-I is enacted to read:

§ 200-I. Public Access Division; Public Access Ombudsman

1. Public Access Division; Public Access Ombudsman. There is created within the Department of the Attorney General the Public Access Division to assist in compliance with the State's freedom of access laws, Title 1, chapter 13. The Attorney General shall appoint the Public Access Ombudsman, referred to in this section as "the ombudsman," to administer the division.

2. Duties. The ombudsman shall:

A. Prepare and make available interpretive and educational materials and programs concerning the State's freedom of access laws in cooperation with the Right To Know Advisory Committee established in Title 1, section 411;

B. Respond to informal inquiries made by the public and public agencies and officials concerning the State's freedom of access laws;

C. Respond to and work to resolve complaints made by the public and public agencies and officials concerning the State's freedom of access laws;

D. Furnish, upon request, advisory opinions regarding the interpretation of and compliance with the State's freedom of access laws to any person or public agency or official in an expeditious manner. The ombudsman may not issue an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under Title 1, chapter 13. Advisory opinions must be publicly available after distribution to the requestor and the parties involved; and

E. Make recommendations concerning ways to improve public access to public records and proceedings.

3. Assistance. The ombudsman may request from any public agency or official such assistance, services and information as will enable the ombudsman to effectively carry out the responsibilities of this section.

4. Confidentiality. The ombudsman may access records that a public agency or official believes are confidential in order to make a determination whether the records may be released to the public. Records that would be confidential if they were in the possession or custody of a public agency or official are confidential if those records are in the possession of the ombudsman. The ombudsman shall maintain the confidentiality of confidential records and information provided to the ombudsman.

5. Report. Beginning in 2008, the ombudsman shall submit a report not later than March 15th of each year to the Legislature and the Right To Know Advisory Committee established in Title 1, section 411 concerning the activities of the ombudsman for the previous year. The report must include:

- A. The total number of inquiries and complaints received;
- B. The number of inquiries and complaints received respectively from the public, the media and public agencies or officials;
- C. The number of complaints received concerning respectively public records and public meetings;
- D. The number of complaints received concerning respectively:
 - (1) State agencies;
 - (2) County agencies;
 - (3) Regional agencies;
 - (4) Municipal agencies;
 - (5) School administrative units; and
 - (6) Other public entities;
- E. The number of inquiries and complaints that were resolved;
- F. The total number of written advisory opinions issued and pending; and
- G. Recommendations concerning ways to improve public access to public records and proceedings.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

**ATTORNEY GENERAL, DEPARTMENT OF THE
Administration - Attorney General 0310**

Initiative: Provides funds for a part-time Assistant Attorney General position and general operating expenses required to carry out the purposes of this Act.

GENERAL FUND	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.500	0.500
Personal Services	\$27,941	\$39,458
All Other	\$1,718	\$1,290
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GENERAL FUND TOTAL	\$29,659	\$40,748

SUMMARY

This bill is introduced by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G and is based on the Right To Know Advisory Committee's recommendation to establish a Public Access Ombudsman.

This bill establishes the Public Access Ombudsman within the Department of the Attorney General. The ombudsman will provide information and educational materials and programs to the public, as well as public agencies and officials, in cooperation with the Right To Know Advisory Committee. The ombudsman will respond to informal inquiries, resolve freedom of access complaints when possible and issue advisory opinions concerning the State's freedom of access laws. The ombudsman is not permitted to issue an advisory opinion on an issue that is the subject of a lawsuit filed under the freedom of access laws. The ombudsman must make the advisory opinions available to the public once they are distributed to the persons requesting the advisory opinion and the parties involved. The ombudsman will make recommendations concerning ways to improve public access to public records and public proceedings.

The ombudsman may request the assistance of any public agency or official in carrying out these responsibilities. The ombudsman may access records that a public agency or official believes are confidential in order to determine whether the records may be released to the public. Records that would be confidential if they were in the possession or custody of a public agency or official are confidential if those records are in the possession of the ombudsman. The ombudsman shall maintain the confidentiality of confidential records and information provided to the ombudsman.

Beginning in March 2008, the ombudsman will report annually to the Legislature and the Right To Know Advisory Committee regarding the ombudsman's activities and the inquiries and complaints received. The report must also include recommendations concerning ways to improve public access to public records and proceedings.

FISCAL NOTE REQUIRED
(See attached)