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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 recommendation concerning whether the public agency or official may release the records to the public. The ombudsman's recommendation is not binding on the public agency

or official. The ombudsman shall maintain the confidentiality of records and information provided to the ombudsman by a public agency or official under this subsection and shall return the records to the public agency or official when the ombudsman's review is complete.

5. Report. 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.

6. Repeal. This section is repealed June 30, 2009.

Sec. 2. Pilot project. Notwithstanding the Maine Revised Statutes, Title 5, section 200-I, subsection 1, the Department of the Attorney General may establish the Public Access Division and appoint the Public Access Ombudsman as a pilot project if funding is available.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

ATTORNEY GENERAL, DEPARTMENT OF THE

Administration - Attorney General 0310

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

FEDERAL EXPENDITURES FUND	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.000	0.500
Personal Services	\$0	\$39,458
All Other	\$0	\$1,718
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$41,176

Effective July 18, 2008