

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

*FACTS:*

An individual has been appointed to the Environmental Improvement Commission to fill one of the two membership positions for municipal interests. 38 M.R.S.A. § 361. The individual maintains a consulting engineering practice and in addition is employed by a municipality as town engineer.

*QUESTION:*

Is the subject individual disqualified from serving as a member of the Environmental Improvement Commission because of his outside practice and employment?

*ANSWER:*

No. However, the individual should disqualify himself from voting, as a member of the Commission, on matters involving his clients and his employer.

*OPINION:*

38 M.R.S.A. § 361 specifically provides that the members of the commission shall represent certain defined interests – manufacturing interests of the State, municipalities, the public and conservation. The commission is charged with numerous regulatory and enforcement powers in the environmental field, any one of which may at some point affect any one of such interests. If an individual was to be disqualified from taking any action as a member of the commission merely because he was appointed to represent a particular interest as the statute envisions, the commission would be paralyzed. We cannot conceive that the legislature intended such a result.

However, in the case of the member under consideration, there may be instances where his employer, or one of his clients, comes within the regulatory or enforcement purview of the commission. In such event a conflict of interest would arise, and the member must disqualify himself from participating in the proceedings.

ROBERT G. FULLER, JR.  
Assistant Attorney General

January 8, 1970  
Inland Fisheries and Game

C. Keith Miller, Business Manager

Interest on Fish and Game Moneys Deposited with State Treasurer

*SYLLABUS:*

While moneys received by the Department of Inland Fisheries and Game may be used in payment of rent for office space, interest earned on funds of the department invested by the State Treasurer must, in accordance with 5 M.R.S.A. § 135, be credited to the General Fund and may not be used in payment of such rent.

*FACTS:*

The Department of Inland Fisheries and Game has for a long period of time maintained a large cash balance of special revenue funds on deposit with the State Treasurer which has been invested by the Treasurer in accordance with law and has earned a sizeable amount of interest each year. Under the provisions of 5 M.R.S.A. § 135, this interest has been credited to the General Fund of the State. The department has been advised that, effective January 1, 1970, it will be charged rent for the space used by it in the State Office Building. It had previously been understood that the above-referred-to interest, being so credited, served as a substitute for the rental fee for such space.

*QUESTION:*

May the interest earned on department funds deposited with the Treasurer and invested by him in accordance with 5 M.R.S.A. § 135 be used by the department to pay for rental of office space?

*ANSWER:*

No.

*REASON:*

Moneys received by the department are for the use of the department and are deposited with the State Treasurer in a special revenue account. From these receipts the Legislature, by P. & S. L. 1969, Ch. 143, has allocated certain amounts for departmental operations which may include rent of office space.

When, however, there are excess moneys in the Treasury not needed to meet current obligations, 5 M.R.S.A. § 135 provides that the Treasurer may invest such moneys and that "interest earned on such investments shall be credited to the respective funds, except that interest earned on investments of special revenue funds shall be credited to the General Fund of the State."

It follows from the above that while moneys received by the department may be used in payment of rent for office space, interest earned on funds of the department invested by the Treasurer in accordance with 5 M.R.S.A. § 135, must be credited to the General Fund and may not be used in payment of such rent.

LEON V. WALKER, JR.  
Assistant Attorney General

January 9, 1970  
Bureau of Taxation

Ernest H. Johnson, State Tax Assessor

National Banks

*SYLLABUS:*

IN VIEW OF H.R. 7491, MAINE IS PRECLUDED FROM IMPOSING A CORPORATE INCOME TAX AGAINST NATIONAL BANKS SINCE MAINE NOW LEVIES A BANK STOCK TAX AGAINST THEIR CAPITAL STOCK. FURTHER, THE