

MAINE STATE LEGISLATURE

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State Employees: ~~Conflict of interest - electrical inspectors~~
Conflict of office: Electrical Inspector

August 17, 1976

Leo O. Martin, Chairman
Electricians' Examining Board
Greenville Street
Hallowell, Maine 04347

Dear Mr. Martin:

In your memo to me dated July 9, 1976, you have asked whether a state electrical inspector may serve as the executive secretary of the Electricians' Examining Board. The answer to your question is negative.

You have correctly stated in your memo that this question is quite similar to the question presented to our office by your memo dated May 21, 1976^{1/}. Based upon my conversation with Board member Welch, I understand that the circumstances which had prompted the earlier question was the desire of one Board member to apply for and serve as a state electrical inspector. This Office responded to your earlier question in applicable part as follows:

" . . . the Board member should agree to resign from the board should his application be acted on favorably by the board. We do not believe that a person can serve upon the board as a member and as employee of that board. Such holding of dual positions with one agency is generally not allowed unless specifically authorized by statute or as a result of unusual circumstances which require a person temporarily holding two positions."

^{1/} The question therein was as follows: "Can a Board member apply for a job, when the Board is the employer and the Board member would become the employee and still remain a member of that Board during consideration or actual employment by the Board involved?" (emphasis added)

J. O. Martin, Chairman
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Since 32 M.R.S.A. § 1151 provides that the executive secretary of the Electricians' Examining Board shall be a member of that Board, it follows that the Board's executive secretary could not also serve simultaneously as a state electrical inspector.

See also 63 American Jurisprudence 2d, Public Officers and Employees, § 74.2/

Please feel free to call me if I may be of further assistance to the Board.

Very truly yours,

DAVID ROSEMAN
Assistant Attorney General

DR:mfe

2/ It is stated therein that one of the most important determinants of the incompatibility of two offices is the fact that one office is subordinate to some extent to the other and is subject in some degree to the revisory power of the other office. Thus, it is important to note that under 32 M.R.S.A. § 1104 a person ordered by a state electrical inspector to correct an electrical deficiency may appeal that order to the Electricians' Examining Board.