

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

August 18, 1983

Honorable John L. Martin
Speaker
House of Representatives
State House Station #2
Augusta, Maine 04333

Dear Speaker Martin:

You have asked for my views regarding the propriety of members of the Maine Legislature accepting an offer from the Whitewater Outfitters Association of Maine, Inc. to participate, at a cost of \$15 for up to two people, in a whitewater raft trip on the Penobscot River on August 25, 1983. You have further indicated that the price includes luncheon on the river, and that the fee generally charged by the Association for the services in question runs substantially in excess of that which is being asked of any participating Legislator.

The most relevant provision of law concerning your question is Section 1014 of the Maine Legislative Ethics Act, 1 M.R.S.A. § 1011, et seq., which provides, in pertinent part,

"1. Situations involving conflict of interest. A conflict of interest shall include the following:

* * *

"B. Where a Legislator or a member of his immediate family accepts gifts, other

than campaign contributions duly recorded as required by law, from persons affected by legislation or who have an interest in a business affected by proposed legislation, where it is known or reasonably should be known that the purpose of the donor in making the gift is to influence the Legislator in the performance of his official duties or vote, or is intended as a reward for action on his part."

The first paragraph of the letter of the President of Whitewater Outfitters Associations of Maine, Inc., offering the whitewater raft trip to members of the Legislature at a substantially reduced price, states:

"The past year saw much legislation dealing with rivers in Maine. The many users of Maine rivers, including whitewater rafting, canoeing, fishing, camping and hydro power, will almost certainly be issues that are with us in the years ahead."

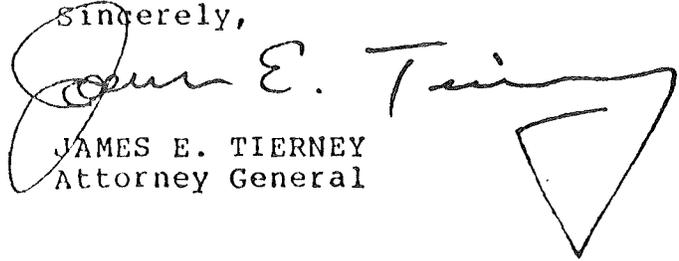
It thus appears that the offer of a low-cost raft trip is intended to "influence [Legislators] in the performance of [their] official duties or vote" in future years within the meaning of 1 M.R.S.A. § 1014(1)(B). That being the case, should individual Legislators choose to participate in this activity, such participation could well be construed to constitute acceptance of a "gift" and give rise to conflicts of interest for such Legislators should further legislation concerning the regulation of whitewater rafting, or activities such as hydropower development which might be inconsistent with whitewater rafting, come before the Legislature in the future. Under these circumstances, I would immediately encourage members of the legislature not to accept this particular invitation, unless they were to pay the normal price for the service.

Please be further advised that in providing you with my views on this question, I do not mean to be interfering with the procedure which the Legislature has established for resolving questions of this kind. As you know, the Legislative Ethics Act establishes a Legislative Ethics Commission, whose function is to advise individual members of the Legislature as to the interpretation of the Act. The reason that I am providing you with my thoughts is only that, in view of the time constraints involved, it would be impossible to assemble the Commission in sufficient time to allow it to render an

opinion. I should hope, therefore, that the course which the Legislature has provided for the resolution of legislative ethics questions will continue to be used in the future when time is not of the essence.

I hope the foregoing is responsive to your inquiry. Please feel free to reinquire if any further clarification is necessary.

Sincerely,

A handwritten signature in cursive script that reads "James E. Tierney". The signature is written in black ink and is positioned above the typed name. To the right of the signature is a large, hand-drawn triangle.

JAMES E. TIERNEY
Attorney General

JET/ec

cc: Jim Ernst