

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1980

H. P. 1538

House of Representatives, January 24, 1972

Committee on State Government suggested.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Susi of Pittsfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-TWO

AN ACT Relating to Legislative Ethics.

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

Sec. 1. R. S., T. 3, § 381, sub-§ 4, repealed and replaced. Subsection 4 of section 381 of Title 3 of the Revised Statutes, as enacted by chapter 146 of the public laws of 1971, is repealed and the following enacted in place thereof:

4. Authority. The committee shall have the authority:

A. To issue, on request of any Legislator, or on its own motion, advisory opinions and guidelines, on problems or questions involving possible conflicts of interest in matters under consideration by, or pertaining to the Legislature.

B. To investigate conflicts of interest, hold hearings and issue opinions thereon.

5. Procedure. The following procedures shall apply to all matters within the jurisdiction of the committee:

A. Requests for advisory opinions by Members of the Legislature shall be filed with the committee in writing, signed by the Legislator requesting the opinion and contain such supporting data as the committee may require.

B. The committee shall conduct such investigations and hold such public hearings as it deems necessary upon a majority vote of the members of the committee. When the conduct of a particular person is under inquiry, and a hearing is to be held, the person shall be given written notification of the conflicts alleged and of the time and place the hearing is to be held. Such

notification shall be given not less than 10 days prior to the date set for the hearing.

C. The committee shall have the authority, through its chairman or any member designated by him, to administer oaths, subpoena witnesses and compel the production of books, records, papers, documents, correspondence and other material and records which the committee deems relevant. The State, its agencies and instrumentalities shall furnish to the committee any information, records or documents which the committee designates as being necessary for the exercise of its functions and duties.

In the case of refusal of any person to obey an order or subpoena of the committee, the Superior Court, upon application of the committee, shall have jurisdiction and authority to require compliance with the order or subpoena. Any failure of any person to obey an order of the Superior Court may be punished by that court as a contempt thereof.

D. Any person whose conduct is under inquiry shall be provided with the fullest measure of due process, including if requested, the right to a hearing. Any witness shall have the right to file a sworn statement relevant to his testimony, which shall be incorporated in the record.

Any person whose name is mentioned in an investigation or hearing and who believes that testimony has been given which adversely affects him shall have the right to testify, or, at the discretion of the committee, to file a statement of facts under oath relating solely to the material relevant to the testimony of which he complains. Any witness at an investigation or hearing, subject to rules and regulations promulgated by the committee, shall be entitled to a copy of his testimony when the same becomes relevant to a criminal proceeding or subsequent investigation or hearing, provided that the furnishing of such copy will not prejudice the public interest.

All witnesses shall be sworn. The committee shall not be bound by the strict rules of evidence, but its findings and opinions must be based upon competent and substantial evidence.

Time periods and notices may be waived by agreement of the committee and the person whose conduct is under inquiry.

E. A copy of the committee's advisory opinions and guidelines with such deletions and changes as the committee deems necessary to protect the identity of the person seeking the opinions, or others, shall be filed with the Clerk of the House and the clerk shall keep them in a special binder and shall finally publish them in the Legislative Record. The committee may exempt an opinion or a part thereof from release, publication or inspection, if it deems it is appropriate for the protection of 3rd parties and makes available to the public an explanatory statement to that effect.

F. The records of the committee and all information received by the committee in the course of its investigation and conduct of its affairs, other than that disclosed at public hearings and its opinions and guidelines shall be confidential.

G. In addition to the foregoing, the committee shall have the authority to adopt, amend and repeal any rules and regulations it deems necessary

to carry out this chapter, and it shall exercise all other powers and duties necessary to effect the purpose of this chapter.

Sec. 2. R. S., T. 3, §§ 382-383, additional. Title 3 of the Revised Statutes is amended by adding 2 new sections to read as follows:

§ 382. Voting

If the committee has determined that a member of the Legislature has a conflict of interest or a member has a conflict of interest under advisory opinions and guidelines promulgated by the committee, he shall be precluded from voting on any question in connection with the conflict in committee or in either branch of the Legislature and from attempting to influence the outcome of the legislation relating to the conflict.

§ 383. Penalty for false accusations

Any person who shall knowingly and intentionally file a false or groundless charge or conflict of interest with the Committee on Legislative Ethics, or any member of the committee, or whoever induces another to do so shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

STATEMENT OF FACT

This legislation will, among other things, give the Committee on Legislative Ethics the authority to act on its own initiative and to set up the necessary procedural standards for the operation of the committee.