

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1223**

S. P. 400

In Senate, March 14, 1979

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

Presented by Senator Collins of Knox.

Cosponsor: Senator Pierce of Kennebec.

MAY M. ROSS, Secretary of the Senate

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Clarify Executive Conflict of Interest.**

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

5 MRSA § 15, as last amended by PL 1977, c. 696, §§ 31 and 32, is further amended to read:

**§ 15. Disqualification of former executive employees and present executive employees from participation in certain matters**

**1. Former executive employee.** ~~Any person who has been a member of the classified or unclassified service employed by an executive agency~~ **A former executive employee** shall be guilty of a Class E crime, if he:

**A.** Within one year after his employment has ceased, knowingly acts as an agent or attorney for anyone other than the State in connection with any official proceeding in which:

- (1) The State is a party or has a direct and substantial interest; and
- (2) The particular matter at issue was pending before his agency and was directly within his official responsibilities as ~~a state employee~~ **an executive employee** at any time within one year prior to the termination of his employment; **or**

**B.** Within one year after his employment has ceased, appears personally before any state or quasi-state agency for anyone other than the State in connection with any proceeding in which:

- (1) The State is a party or has direct and substantial interest; and
- (2) The particular matter at issue was pending before his agency and was directly within his official responsibilities at any time within one year prior to the termination of his employment.

~~2. Partner of former executive employee. Any former partner of a person who is currently a member of the classified or unclassified service employed by an executive agency shall be guilty of a Class E crime if that former partner, within one year after the partnership has ended, acts as agent or attorney for anyone other than the State in connection with any official proceeding in which:~~

- ~~A. The State is a party or has a direct and substantial interest; and~~
- ~~B. The subject matter at issue is directly within the official responsibility of the person, currently employed by an executive agency, who was formerly his partner.~~

**2-A. Present executive employee**

**A.** A present executive employee shall be guilty of a Class E crime if he personally and substantially participates in his official capacity, in any official proceeding in which, to his knowledge, any of the following have a financial interest:

- (1) Himself, his spouse or his children;
- (2) His partner;
- (3) Any person or organization with whom he is negotiating or has agreed to an arrangement concerning prospective employment; or
- (4) Any organization in which he has a direct financial interest.

**B.** This subsection shall not apply if the executive employee advises the Commission on Governmental Ethics and Election Practices of the nature and circumstances of the proceedings; makes full disclosure of the financial interest and his relationship to the party with the financial interest; and receives, in advance, a written determination of the commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the State may expect from that employee.

**3. Construction of section.** This section shall not be construed to prohibit former state employees from doing personal business with the State.

**4. Definitions.** As used in this section, unless the context otherwise indicates, the following terms shall have the following meanings.

**A. "Executive employee" means the Attorney General, the Secretary of State, the Treasurer of State, the State Auditor and any members of the classified or unclassified service appointed or employed by these officers, or any members of the classified or unclassified service employed by the Executive Branch of State Government, excepting the National Guard and all educational institutions. It shall not include the Governor.**

**B. "Participate in his official capacity" means to take part in reaching any decision or recommendation in a proceeding that is within the authority of the position he holds.**

**C. "Proceeding" means any proceeding, application, request, ruling, determination, award, contract, claim, controversy, charge, accusation, arrest or other matter relating to governmental action or inaction.**

#### STATEMENT OF FACT

The purpose of this bill is to clarify the statutes on conflict of interest of executive branch employees. The bill removes the provision in present statutes which restricts the activities of former partners of employees and replaces it with restrictions on the employee. The bill requires that employee to refrain from participating in matters in which he has or may have a financial interest. The bill also provides an exception for minimal interests, as determined by the Commission on Governmental Ethics and Election Practices.