

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-817)
109TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1774, L.D. 1877, Bill, "AN ACT to Clarify the Provisions Relating to Executive Conflict of Interest and to Establish Financial Disclosure Requirements for Policy-making Executive Employees."

Amend the bill by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 5 MRSA §§18 and 19 are enacted to read:

§18. Disqualification of executive employees from participation in certain matters

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

A. "Constitutional officers" means the Attorney General, Secretary of State and Treasurer of State.

B. "Executive employee" means the constitutional officers, the State Auditor and compensated members of the ^{classified or}unclassified service employed by the Executive Branch, but it shall not include:

(1) The Governor;

(2) Employees of and members serving with the National Guard;

(3) Employees of the University of Maine, the Maine Maritime Academy and state vocational-technical institutes; and

(4) Employees who are employees solely by their appointment to an advisory body.

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

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

2. Executive employee. An executive employee commits a civil violation if he personally and substantially participates in his official capacity in any proceeding in which, to his knowledge, any of the following have a direct and substantial financial interest:

A. Himself, his spouse or his dependent children;

B. His partners;

C. A person or organization with whom he is negotiating or has agreed to an arrangement concerning prospective employment; or

D. An organization in which he has a direct and substantial financial interest.

3. Former executive employee. A former executive employee commits a civil violation if he, within one year after his employment has ceased, either knowingly acts as an agent or attorney for, or appears personally before, a state or quasi-state agency for anyone other than the State in connection with a proceeding in which:

A. The State is a party or has a direct and substantial interest; and

B. The particular matter at issue was pending before his agency and was directly within his official responsibilities as an executive employee at any time within one year prior to the termination of his employment.

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

5. Penalty. A violation of this section is a civil violation for which a forfeiture of not more than \$1,000 may be adjudged.

§19. Financial disclosure by executive employees

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

A. "Appointed executive employee" means a compensated member of the classified or unclassified service employed by the Executive Branch, who is appointed by the Governor and confirmed by the Legislature.

B. "Constitutional officers" means the Attorney General, Secretary of State and Treasurer of State.

C. "Elected executive employee" means the constitutional officers and the State Auditor.

D. "Executive employee" means an appointed executive employee or an elected executive employee.

E. "Income" means economic gain from any source, including compensation for services, including fees, commissions and payments in kind; income derived from business; gains derived from property transactions, rents or royalties; income from investments, including interest, capital gains and dividends; alimony or separate maintenance payments; annuities; income from life insurance or endowment contracts; pensions; discharges of indebtedness; distributive share of partnership income; income from an interest in an estate or trust; and prizes, awards, grants or gifts.

2. Statement of sources ^{of income} / . Each executive employee shall annually file with the Secretary of State a sworn and notarized statement of finances for the preceding calendar year. The statement shall indicate:

A. The category or type of entity or economic activity that is the source of income to him, his spouse or dependent children that exceeds \$300 during the year; and

B. If he is an attorney, the major areas of practice, and if associated with a law firm, the major areas of the firm's practice.

3. Time for filing.

A. An elected executive employee shall file an initial report within 30 days of his election. An appointed executive employee shall file an initial report prior to confirmation by the Legislature.

B. Each executive employee shall file the annual report prior to the close of the 2nd week in April, unless he has filed an initial or updating report during the preceding 30 days.

C. Each executive employee whose income substantially changes shall file a report of that change within 30 days of it.

4. Penalties. Failing to file the statement, within 15 days of having been notified by the Secretary of State of failing to meet the requirements of subsection 2, is a civil violation for which a forfeiture of not more than \$100 may be adjudged.

5. Rules. The Secretary of State may adopt or amend rules to specify the reportable categories or types ^{and the} /procedures and forms for reporting and to administer this section.

6. Public record. Statements filed under this section are public records.'

Further amend the bill by inserting at the end, before the statement of fact, the following:

'Sec. 15. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1980-81</u>
STATE, DEPARTMENT OF SECRETARY OF STATE	
Personal Services	\$4,000
All Other	1,100
Capital Expenditures	<u>150</u>
Total	\$5,250'

Statement of Fact

The purposes of this amendment are to:

1. Define "constitutional officers;"
2. Delete from disclosure requirements reports on future interests, property and estimates for next year; and
3. Provide an appropriation for administering the Act.

Reported by the Majority of the Committee on State Government
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 House
 2/29/80 (Filing No. H-817)