

MAINE STATE LEGISLATURE

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D. OF R.

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L.D. 1723

(Filing No. S-409)
(Corrected Copy)

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STATE OF MAINE
SENATE
110TH LEGISLATURE
SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to S.P. 738, L.D. 1723, Bill,
"AN ACT to Address the Potential Conflict of Interest of the
Board of Pesticides Control."

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Amend the Bill by striking out everything after the
title and inserting in its place the following:

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'Emergency preamble. Whereas, Acts of the Legislature
do not become effective until 90 days after adjournment
unless enacted as emergencies; and

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Whereas, existing state law would preclude current mem-
bers of the Board of Pesticides Control from contracting
with the State to provide services; and

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Whereas, in several cases the members are unique in
their ability to provide these services; and

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Whereas, these members of the board were in fact
appointed because of their relevant experience and exper-
tise; and

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Whereas, these members will be forced to resign or
state agencies will be forced to act without their assis-
tance unless the current law is changed; and

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Whereas, in the judgment of the Legislature, these
facts create an emergency within the meaning of the Consti-
tution of Maine and require the following legislation as
immediately necessary for the preservation of the public
peace, health and safety; now, therefore,

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Be it enacted by the People of the State of Maine as fol-
lows:

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Sec. 1. 22 MRSA §1471-B, sub-§2, 3rd sentence, as
enacted by PL 1979, c. 644, §3, is amended to read:

1 COMMITTEE AMENDMENT "A" to S.P. 738, L.D. 1723

2 Four members shall constitute a quorum and any action shall
3 require the affirmative vote of ~~4~~ members the greater of
4 either a majority of those present and voting or at least 2
5 members.

6 Sec. 2. 22 MRSA §1471-B, sub-§7 is enacted to read:

7 7. State contracts. Notwithstanding any other provi-
8 sion of law, members of the board shall be eligible to con-
9 tract with the State where the contracts are awarded con-
10 sistent with normal bidding procedures of the Department of
11 Finance and Administration. Members shall also be eligible
12 to receive grants where grants are awarded consistent with
13 normal state procedures. In no case may any member vote on
14 the award of a contract or grant for which he has submitted
15 a bid or proposal.

16 Emergency clause. In view of the emergency cited in
17 the preamble, this Act shall take effect when approved.'

18 STATEMENT OF FACT

19 The membership of the Board of Pesticides Control was
20 specifically appointed to represent given categories of
21 expertise. This very expertise which makes them valuable
22 members raises questions concerning their ability to con-
23 tract with the State in areas where the State could utilize
24 their services.

25 Because of current statutory provisions, board members
26 are prohibited from contracting with the State for services
27 in any area. The Attorney General has refused to sign a
28 contract for services by a member of the board even though
29 that member was low bidder. In several instances, individu-
30 als serving on the board are not only those with unique
31 expertise to serve on the board, but have a unique ability
32 to perform specific contractual services for the State. If
33 they are not allowed to do so, the State will have to seek
34 contracts outside of Maine's boundaries for higher costs.
35 The existing prohibitions will force the resignation of
36 board members and will present problems for future appoint-
37 ments if those appointments are to continue to be based on
38 meaningful expertise.

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2 In no case could members of the board vote on the award
3 of contracts on which they bid. To prevent the board from
4 being unable to act in those instances where members may ab-
5 stain or be disqualified from voting, this amendment also
6 allows decisions of the board to be made by the greater of
7 either a majority of those present and voting or at least 2
8 members.

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Reported by the Committee on Agriculture.

Reproduced and distributed pursuant to Senate Rule 11-A.

March 15, 1982

(Filing No. S-409)