

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
SECOND REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1723**

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S. P. 738 Office of the Secretary of the Senate  
Submitted by the Department of Agriculture, Food and Rural  
Resources pursuant to Joint Rule 24.  
Reference to the Committee on Agriculture suggested and 1,500  
Ordered Printed.

MAY M. ROSS, Secretary of the Senate  
Presented by Senator Violette of Aroostook.  
Cosponsor: Representative Lisnik of Presque Isle.  
Representative Masterton of Cape Elizabeth.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-TWO

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**AN ACT to Address the Potential Conflict  
of Interest of the Board of Pesticides Control.**

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

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

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

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

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

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

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

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

13           22 MRSA §1471-B, sub-§§7 and 8 are enacted to read.

14           7. State contracts. Notwithstanding Title 17, section  
15 3104, members of the board shall be eligible to contract  
16 with the State where the contracts are awarded consistent  
17 with normal bidding procedures of the Department of Finance  
18 and Administration. Members shall also be eligible to  
19 receive grants where grants are awarded consistent with  
20 normal state procedures.

21           8. Voting. Notwithstanding the general common law  
22 principles of conflict of interest, it is the express intent  
23 of the Legislature that members of the board shall not be  
24 precluded from voting on any matter which comes before the  
25 board solely because of their interest in the issue where  
26 this interest arises from the expertise which was the basis  
27 of their appointment under subsection 1.

28           Emergency clause. In view of the emergency cited in  
29 the preamble, this Act shall take effect when approved.

30   Statement of Fact

31           The purpose of this bill is to remove restrictions on  
32 the right of members of the Board of Pesticides Control to  
33 contract with the State and to clarify the applicability of  
34 common law principles of conflict of interest to decisions  
35 by members of the board.

1           The membership of the Board of Pesticides Control was  
2 specifically appointed to represent given categories of  
3 expertise. This very expertise which makes them valuable  
4 members raises questions concerning their ability to vote on  
5 issues which may impact the area of their work or to con-  
6 tract with the State to provide services.

7           The bill addresses 2 areas of concern: The ability of  
8 the members to contract with the State and the ability to  
9 vote on certain issues. Because of current statutory provi-  
10 sions under Title 17, board members are prohibited from con-  
11 tracting with the State for services in any area. The  
12 Attorney General has refused to sign a contract for services  
13 by a member of the board even though that member was low  
14 bidder. In several instances, individuals serving on the  
15 board are not only those with unique expertise to serve on  
16 the board, but have a unique ability to perform specific  
17 contractual services for the State. If they are not allowed  
18 to do so, the State will have to seek contracts outside of  
19 Maine's boundaries for higher costs. The existing prohibi-  
20 tions will force the resignation of board members and will  
21 present problems for future appointments if those appoint-  
22 ments are to continue to be based on meaningful expertise.

23           Similarly, traditional principles of conflict of inter-  
24 est law raise issues as to whether or not board members  
25 should vote on issues which affect them; for example, the  
26 propriety of the agriculture representative voting on the  
27 registration of a pesticide particularly important to his  
28 farming operation has been questioned. The Attorney General  
29 has been unable to clarify this and other potential conflict  
30 concerns. This bill would express the intent of the Legis-  
31 lature in resolving these problems.