

# MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 167, L.D. 435)  
2 (New Title)  
3 FIRST REGULAR SESSION  
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5 ONE HUNDRED AND TWELFTH LEGISLATURE  
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7 Legislative Document

No. 1434

8  
9 S.P. 533

In Senate, April 29, 1985

10 Reported by Senator Kany of Kennebec from the Committee on State  
11 Government and printed under Joint Rule 2. Original bill sponsored by  
12 Senator Tuttle of York. Cosponsored by Senator Bustin of Kennebec,  
President Pray of Penobscot and Representative Beaulieu of Portland.

JOY J. O'BRIEN, Secretary of the Senate

13  
14 STATE OF MAINE  
15

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16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-FIVE  
18

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19 AN ACT Relating to Solicitations and Public  
20 Office Holding by State Employees.  
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22 Be it enacted by the People of the State of Maine as  
23 follows:

24 Sec. 1. 5 MRSA c. 1, first 3 lines are repealed  
25 and the following enacted in their place:

26 CHAPTER 1

27 STATE OFFICERS AND EMPLOYEES

28 GENERALLY

29 SUBCHAPTER I

30 EMPLOYMENT

1           Sec. 2. 5 MRSA §14, as enacted by PL 1975, c.  
2 597, is repealed.

3           Sec. 3. 5 MRSA c. 1, sub-c. II is enacted to  
4 read:

5   SUBCHAPTER II

6                               PARTICIPATION OF STATE EMPLOYEES

7   IN POLITICAL ACTIVITIES

8           §21. Definitions

9           As used in this subchapter, unless the context  
10 indicates otherwise, the following terms have the  
11 following meanings.

12           1. Election. "Election" means any primary, gen-  
13 eral or special election for the nomination or elec-  
14 tion of municipal, county or state officials. "Elec-  
15 tion" does not include referenda.

16           2. Employee of this State. "Employee of this  
17 State" means an employee in the classified or unclas-  
18 sified service, as defined in sections 671 and 711,  
19 but does not include nonpartisan staff of the Legis-  
20 lature or an employee identified under section 931,  
21 subsection 1, paragraphs A, B, C, D, E, G, H and I.  
22 With respect to section 22, subsection 3, "employee  
23 of this State" includes those employees defined in  
24 section 931, subsection 1, paragraph D.

25           3. Nonpartisan election. "Nonpartisan election"  
26 means an election other than a partisan election.

27           4. Nonpartisan staff. "Nonpartisan staff" means  
28 the directors and staffs of the office of Legislative  
29 Assistants, the Legislative Finance Officer, the of-  
30 fice of the Director of Legislative Research, the  
31 Legislative Information Office and the Office of the  
32 Legislative Administrative Director.

33           5. Partisan election. "Partisan election" means  
34 an election in which a candidate may be nominated or  
35 elected as a representative of a party, as defined in  
36 Title 21, section 1, subsection 21.

1     §22. Prohibited political activity

2             An employee of this State may not:

3             1. Interfere with an election. Use his official  
4 authority or influence for the purpose of interfering  
5 with or affecting the result of an election;

6             2. Coerce political contributions. Directly or  
7 indirectly coerce, attempt to coerce, command or ad-  
8 vide another employee of this State to pay, lend or  
9 contribute anything of value to a party, committee,  
10 organization, agency or person for political pur-  
11 poses;

12            3. Solicit funds for political purposes. Solicit  
13 or request from any person, firm, corporation or or-  
14 ganization a payment, loan or contribution of any-  
15 thing of value to a political party, committee, orga-  
16 nization, agency or person for political purposes.  
17 For the purpose of this subsection only, "employee of  
18 this State" includes those employees defined in sec-  
19 tion 931, subsection 1, paragraph D.

20            4. Be a candidate in an election for state offi-  
21 cial. Be a candidatè in any election for the elec-  
22 tion or nomination of state officials. Law enforce-  
23 ment officers of this State, notwithstanding this  
24 subchapter, shall be subject to Title 25, chapter  
25 403.

26     §23. Permitted political activity

27             An employee of this State may:

28             1. Candidate in nonpartisan election. Be a can-  
29 didate for office in a nonpartisan election;

30             2. Candidate in partisan elections. Be a candi-  
31 date for office in a municipal or county partisan  
32 election if, prior to filing as a candidate, he re-  
33 ceives a written statement from his appointing au-  
34 thority that he is not a "state or local officer or  
35 employee," as defined by the United States Code, Ti-  
36 tle 5, section 1501, as amended; and

1       3. Participation in political campaigns. Except  
2 as provided in section 22, participate fully in po-  
3 litical activities, including donating his own funds,  
4 time or services or soliciting contributions for a  
5 party, committee, organization, agency or person.

6       §24. Nonpartisan legislative staff

7       Nonpartisan staff of the Legislature shall be  
8 subject to the policies and rules of the Legislative  
9 Council as these policies and rules relate to partic-  
10 ipation in political activities.

11       §25. Law enforcement officers

12       Any law enforcement officer who is an employee of  
13 this State shall be subject to Title 25, chapter 403,  
14 with respect to solicitation of anything of value and  
15 holding public office.

16       §26. Penalty

17       A violation of section 22 is a Class E crime.

18                                   STATEMENT OF FACT

19       The purpose of this new draft is to expand the  
20 political rights of state employees and provide mea-  
21 sures to prevent the abuse of these rights. The new  
22 draft is described as follows.

23       1. Persons covered by the new draft include:

24       A. Classified state employees, exceptions listed  
25 in the Maine Revised Statutes, Title 5, section  
26 21, subsection 2; and

27       B. Unclassified state employees, exceptions  
28 listed in Title 5, section 21, subsection 2.

29       Persons exempted from the provisions of this new  
30 draft:

31       A. Elective officers chosen by popular election;

32       B. Constitutional officers;

- 1 C. Heads of departments, members of boards ap-  
2 pointed by the Governor and some bureau chiefs.  
3 This group is not excluded with respect to prohi-  
4 bition against solicitation of political contri-  
5 butions;
- 6 D. Officers and employees in the judicial ser-  
7 vice;
- 8 E. Officers and employees of the House of Repre-  
9 sentatives and Senate;
- 10 F. Employees in the Governor's office and at the  
11 Blaine Mansion;
- 12 G. Officers and employees of the school system  
13 in the unorganized territory and teachers and  
14 principals of state vocational schools and insti-  
15 tutes; and
- 16 H. The Attorney General's office.
- 17 3. Prohibited activities for state employees  
18 covered by the new draft:
- 19 A. State employees may not run in any election  
20 for state office;
- 21 B. State employees, including heads of depart-  
22 ments, members of boards and commissions ap-  
23 pointed by the Governor and some bureau direc-  
24 tors, may not solicit political contributions;
- 25 C. State employees are prohibited from directly  
26 or indirectly coercing political contributions;
- 27 D. State employees are prohibited from using  
28 their official authority or influence to affect  
29 the result of an election; and
- 30 E. State law enforcement officers are governed  
31 by the Maine Revised Statutes, Title 25, chapter  
32 403, which regulates solicitation and office  
33 holding for law enforcement officers.
- 34 4. Permitted activities for state employees cov-  
35 ered by the new draft:

1           A. State employees may be candidates in any non-  
2 partisan election;

3           B. A state employee may be a candidate in munic-  
4 ipal and county partisan elections as long as he  
5 has a statement from his appointing authority  
6 that the employee does not fall under the Federal  
7 Hatch Act; and

8           C. State employees may participate in political  
9 campaigns at any level, municipal, county or  
10 state, including donation of time, funds and ser-  
11 vices.

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