

# MAINE STATE LEGISLATURE

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L.D. 2419

(Filing No. H-687 )

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
113TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1766, L.D. 2419,  
Bill, "AN ACT Relating to Conflict of Interest for  
Certain Governmental Officials and Employees."

Amend the bill by striking out everything after  
the enacting clause and inserting in its place the  
following:

'Sec. 1. 5 MRSA §18, sub-§1, ¶B, as amended by  
PL 1985, c. 779, §7, is further amended to read:

B. "Executive employee" means the constitutional  
officers, the State Auditor, members of the state  
boards and commissions as defined in chapter 379  
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  
System, the Maine Maritime Academy and  
State state vocational-technical  
institutes; ~~and~~
- (4) Employees who are employees solely by

1                   their appointment to an advisory body;

2                   (5) Members of boards listed in chapter 379,  
3                   who are required by law to represent a  
4                   specific interest, except as otherwise  
5                   provided by law; and

6                   (6) Members of advisory boards as listed in  
7                   chapter 379.

8                   Sec. 2.    5 MRSa §18, sub-§3, as enacted by PL  
9                   1979, c. 734, §2, is repealed and the following  
10                  enacted in its place:

11                 3. Former executive employee. Former executive  
12                 employees shall be subject to the provisions in this  
13                 subsection with respect to proceedings in which the  
14                 State is a party or has a direct and substantial  
15                 interest.

16                 A. No former executive employee may knowingly act  
17                 as an agent or attorney for, or appear personally  
18                 before, a state or quasi-state agency for anyone  
19                 other than the State for a one-year period  
20                 following termination of the employee's employment  
21                 with the agency or quasi-state agency in  
22                 connection with a proceeding in which the specific  
23                 issue was pending before the executive employee's  
24                 agency and was directly within the  
25                 responsibilities of the employee during a period  
26                 terminating at least 12 months prior to the  
27                 termination of that employee's employment.

28                 B. No former executive employee may knowingly act  
29                 as an agent or attorney for, or appear personally  
30                 before, a state or quasi-state agency for anyone  
31                 other than the State at any time following  
32                 termination of the employee's employment with the  
33                 agency or quasi-state agency in connection with a  
34                 proceeding in which the specific issue was pending  
35                 before the executive employee's agency and was  
36                 directly within the responsibilities of the  
37                 executive employee during the 12-month period  
38                 immediately preceding the termination of the  
39                 employee's employment.

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1           Sec. 3. 5 MRSA §18, sub-§§6 and 7 are enacted to  
2 read:

3           6. Application of more stringent statutory  
4 provisions. If other statutory conflict of interest  
5 provisions pertaining to any state agency, quasi-state  
6 agency or state board are more stringent than the  
7 provisions in this section, the more stringent  
8 provisions shall apply.

9           7. Avoidance of appearance of conflict of  
10 interest. Every executive employee shall endeavor to  
11 avoid the appearance of a conflict of interest by  
12 disclosure or by abstention.

13           Sec. 4. 5 MRSA §19, sub-§1, 1A, as enacted by PL  
14 1979, c. 734, §2, is amended to read:

15           A. "Appointed executive employee" means a  
16 compensated member of the classified or  
17 unclassified service employed by the Executive  
18 Branch, who is appointed by the Governor and  
19 confirmed by the Legislature, or who serves in a  
20 major policy-influencing position, except  
21 assistant attorneys general, as set forth in  
22 chapter 71.

23           Sec. 5. 30 MRSA §2251, sub-§§5 and 6 are enacted  
24 to read:

25           5. Former municipal and county officials. Former  
26 municipal and county officials shall be subject to the  
27 provisions of this subsection.

28           A. No former municipal or county official may  
29 knowingly act as an agent or attorney for, or  
30 participate in a proceeding before, a municipal or  
31 county government body for anyone other than the  
32 municipality or county for a one-year period  
33 following termination of the municipal or county  
34 official's employment or term of office with that  
35 government body in connection with a proceeding in  
36 which the specific issue was pending before the  
37 municipal or county official and was directly  
38 within the responsibilities of the municipal or  
39 county official during a period terminating at

1 least 12 months prior to the termination of that  
2 official's employment or term of office.

3 B. No former municipal or county official may  
4 knowingly act as an agent or attorney for, or  
5 participate in a proceeding before, a municipal or  
6 county government body for anyone other than the  
7 municipality or county at any time following  
8 termination of the official's employment or term  
9 of office with that government body in connection  
10 with a proceeding in which the specific issue was  
11 pending before the municipal or county official  
12 and was directly within the responsibilities of  
13 the municipal or county official during the  
14 12-month period immediately preceding the  
15 termination of the municipal or county official's  
16 employment or term of office.

17 C. This subsection may not be construed to  
18 prohibit former municipal or county officials from  
19 doing personal business with the municipality or  
20 county. This subsection shall not limit the  
21 application of any provisions of Title 17-A,  
22 chapter 25.

23 For the purpose of this subsection, a municipal or  
24 county government body shall include an agency, board,  
25 commission authority, committee, legislative body,  
26 department or other governmental entity of a  
27 municipality or county.

28 6. Avoidance of appearance of conflict of  
29 interest. Every municipal and county official shall  
30 endeavor to avoid the appearance of a conflict of  
31 interest by disclosure or by abstention.'

32 STATEMENT OF FACT

33 This amendment amplifies current law by:

34 1. Including members of certain state boards  
35 within the definitions of executive employees who are  
36 subject to the state conflict of interest laws.  
37 Boards which are excluded from the definition include:

38 A. Advisory boards as listed in Title 5, chapter

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1 379; and

2 B. Boards listed in Title 5, chapter 379, the  
3 members of which are required by law to represent  
4 specific interests;

5 2. Prohibiting former executive employees from  
6 representing clients before agencies or appearing  
7 personally in proceedings at any time with respect to  
8 matters which had been pending before them in their  
9 official capacity within one year prior to their  
10 departure from state government;

11 3. Prohibiting former executive employees from  
12 representing clients or appearing personally in  
13 proceedings within one year following their departure  
14 from the agency or board with which they were employed  
15 or served with respect to matters in which they had  
16 been directly involved in their official capacity and  
17 were completed at least 12 months prior to their  
18 termination of employment;

19 4. Creating a general guideline for executive  
20 employees that encourages these employees to avoid all  
21 appearances of conflict of interest; and

22 5. Extending the "revolving door" provisions to  
23 county and municipal officials.

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Reported by the Majority of the Committee on State and Local Government  
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