

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1639

H.P. 1184

House of Representatives, May 11, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Speaker MARTIN of Eagle Lake.

Cosponsored by Senator GAUVREAU of Androscoggin and Representative SIMPSON of Casco.

STATE OF MAINE

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

An Act to Amend the Laws Relating to Ethics in Government.



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

3 **Sec. 1. 1 MRSA §1002, sub-§1,** as amended by PL 1983, c. 812,
5 §1, is repealed and the following enacted in its place:

7 1. Membership. The Commission on Governmental Ethics and
9 Election Practices, established by Title 5, section 12004-G,
11 subsection 33, called the "commission," shall consist of 3
13 members to be appointed as follows:

15 A. The President of the Senate, together with the floor
17 leaders of the 2 major parties, shall appoint a single
19 member to the commission with the concurrence of 2/3 vote of
21 the Senate.

23 B. The Speaker of the House of Representatives, together
25 with the floor leaders of the 2 major parties, shall appoint
27 a single member of the commission with the concurrence of
29 2/3 vote of the House of Representatives.

31 C. The 2 members appointed under paragraphs A and B shall
33 appoint a 3rd member who shall serve a term of 2 years, or
35 until a successor is appointed and qualified.

37 D. The commission shall select one of its members as chair
39 to serve during the 2-year term or until a successor is
41 selected; selection of a chair must be by affirmative vote
43 of at least 2 members.

45 E. All members shall be appointed in January of each
47 even-numbered year.

49 F. Two members constitute a quorum and the vote of 2
members is necessary for any action by the commission.

G. The appropriate appointing authority shall appoint
members to vacancies on the commission as they occur or upon
expiration of terms. Vacancies shall be filled for the
unexpired term in which the vacancy occurs.

H. No appointee to the commission may hold any political
office, nor be a lobbyist or official or an employee of the
State or any of its subdivisions. A commission member shall
not participate in any matter before the commission if the
member has participated in any political or referendum
campaign or other ballot issue.

Sec. 2. 1 MRSA §1002, sub-§5, as enacted by PL 1975, c. 621,
§1, is amended to read:

5. **Employees.** The commission may employ such assistance as may be necessary to carry out its duties, but shall employ, at a minimum, 2 staff people for this purpose.

Sec. 3. 1 MRSA §1007, as enacted by PL 1975, c. 621, §1, is amended to read:

§1007. Annual report

The commission shall submit to the Legislature and the public an annual report discussing its activities under this chapter and any changes it considers necessary or appropriate regarding ethical standards.

Sec. 4. 1 MRSA §1008, sub-§2, as amended by PL 1977, c. 337, §1, is further amended to read:

2. Election practices. To administer and investigate any violations of the requirements for campaign reports and campaign financing and to investigate and make findings of fact and opinion on the final determination of the results, within the limits of the Constitution of the--State--of Maine and the Constitution of the United States, of any contested count, state or federal election within this State; and

Sec. 5. 1 MRSA §1008, sub-§3 is enacted to read:

3. Ethics seminar. To conduct, in conjunction with the Attorney General, an ethics seminar for Legislators after the general election and before the convening of the Legislature, in every even-numbered year. The Attorney General shall provide each Legislator with a bound compilation of the laws of this State pertaining to legislative ethics and conduct.

Sec. 6. 1 MRSA §1012, sub-§1-A is enacted to read:

1-A. Commission. "Commission" means the Commission on
Governmental Ethics and Election Practices.

Sec. 7. 1 MRSA §1013, sub-§1, ¶B, as enacted by PL 1975, c. 621, §1, is amended to read:

B. To investigate complaints filed by Legislators or any citizen of the State alleging conflict of interest against any-Legislator, to hold hearings thereon if the commission deems appropriate and to issue publicly findings of fact together with its opinion. All complaints shall be held in strict confidence until an investigation is fully completed and a hearing ordered insofar as possible under right to know laws; and

1 Sec. 8. 1 MRSA §1014, sub-§1, as enacted by PL 1975, c. 621,
2 §1, is amended to read:

3
4 1. Situations involving conflict of interest. A conflict
5 of interest shall include the following:

6
7 A. Where ~~Where~~ When a Legislator or a member of his the
8 Legislator's immediate family has or acquires a direct
9 substantial personal financial interest, distinct from that
10 of the general public, in an enterprise which would be
11 financially benefited by proposed legislation, or derives a
12 direct substantial personal financial benefit from close
13 economic association with a person known by the Legislator
14 to have a direct financial interest in an enterprise
15 affected by proposed legislation.;

16
17 B. Where ~~Where~~ When a Legislator or a member of his the
18 Legislator's immediate family accepts gifts, other than
19 campaign contributions duly recorded as required by law,
20 from persons affected by legislation or who have an interest
21 in a business affected by proposed legislation, where it is
22 known or reasonably should be known that the purpose of the
23 donor in making the gift is to influence the Legislator in
24 the performance of his the Legislator's official duties or
25 vote, or is intended as a reward for action on his the
26 Legislator's part.;

27
28 C. Receiving compensation or reimbursement not authorized
29 by law for services, advice or assistance as a Legislator.;

30
31 D. Appearing for, representing or assisting another in
32 respect to a claim before the Legislature, unless without
33 compensation and for the benefit of a citizen.;

34
35 E. Where ~~Where~~ When a Legislator or a member of his the
36 Legislator's immediate family accepts or engages in
37 employment which could impair the Legislator's judgment, or
38 where the Legislator knows that there is a substantial
39 possibility that an opportunity for employment is being
40 afforded him the Legislator or a member of his the
41 Legislator's immediate family with intent to influence his
42 conduct in the performance of his official duties, or where
43 when the Legislator or a member of his the Legislator's
44 immediate family stands to derive a personal private gain or
45 loss from employment, because of legislative action,
46 distinct from the gain or losses of other employees or the
47 general community.;

48
49 F. Where ~~Where~~ When a Legislator or a member of his the
50 Legislator's immediate family has an interest in legislation
51 relating to a profession, trade, business or employment in
52 which the Legislator or a member of his the Legislator's

1 immediate family is engaged, where the benefit derived by
2 the Legislator or a member of his the Legislator's immediate
3 family is unique and distinct from that of the general
4 public or persons engaged in similar professions, trades,
5 businesses or employment; and

6
7 G. When a Legislator accepts an honorarium of more than
8 \$500 for a single speech or appearance.

9
10 **Sec. 9. 1 MRSA §1014, sub-§2, ¶A,** as enacted by PL 1975, c.
11 621, §1, is amended to read:

12
13 A. Appearing for, representing or assisting another in a
14 matter before a state agency or authority, unless without
15 compensation and for the benefit of a constituent citizen,
16 except for attorneys or other professional persons engaged
17 in the conduct of their professions. All Legislators,
18 without exception, shall refrain from any threat, or
19 statement that could be reasonably construed as a threat
20 orally or in writing, relating to legislative action in
21 communication with a state agency or authority.

22 (1) Even in the excepted cases, an attorney or other
23 professional person must refrain from references to his
24 that person's legislative capacity, from communications
25 on legislative stationery and from threats or
26 implications relating to legislative action.

27
28 **Sec. 10. 1 MRSA §1016,** as enacted by PL 1975, c. 621, §1, is
29 repealed and the following enacted in its place:

30 **§1016. Statement of sources of income**

31
32 Each Senator and member of the House of Representatives
33 shall file a statement with the commission prior to February 1st
34 of each year, citing each bona fide source of income to the
35 member, the member's spouse or the member's dependent children of
36 over \$500 during the preceding calendar year, by actual name,
37 address and the nature of the service of the other source of
38 income. Reporting a consulting firm as a source of income of
39 which the Legislator, the Legislator's spouse or the Legislator's
40 dependent child is a principal, with the intention of evading
41 this section, does not satisfy this requirement.

42
43 Attorneys are not excused from reporting the name of clients
44 but shall be excused from reporting the nature of services
45 performed under the Code of Professional Responsibility
46 pertaining to confidentiality. If an attorney reports a law firm
47 as a source of income, that attorney must divulge the principal
48 areas of law in which that attorney is engaged by that firm and
49 types of cases handled by that law firm, from which the firm
50
51

1 derived in excess of 20% of its gross income during the preceding
2 2 years.

3
4 Legislators shall also report all liabilities during the
5 last calendar year over \$3,000 by the creditor's name and
6 address, excluding home mortgages financed through banking or
7 credit organizations, credit cards or retail installment credit.
8 This requirement also applies to the spouse and dependent
9 children of Legislators.

11 **Sec. 11. 1 MRSA §§1022 to 1024 are enacted to read:**

13 **§1022. Former Legislators; lobbying**

15 No former Legislator may engage in lobbying activity,
16 including appearance as an agent before a legislative committee,
17 for a period of 12 months after that Legislator leaves the
18 Legislature.

19 **§1023. Disciplinary guidelines**

21 The Legislature shall enact, publish, maintain and
22 implement, as authorized in the Constitution of Maine, Article
23 IV, Part Third, Section 4, disciplinary guidelines and procedures
24 for Legislators, including the violations of ethical standards
25 for which the penalties of reprimand, censure or expulsion are
26 appropriate and the proceedings under which these or other
27 penalties may be imposed.

29 **§1024. Code of ethics**

31 1. Code established. The Legislature shall enact, publish,
32 maintain and implement a code of ethics for Legislators and
33 legislative employees that shall address:

35 A. The conduct of Legislators and employees;

37 B. Voting abstention;

39 C. Compensation;

41 D. Confidentiality;

43 E. Improper influence;

45 F. The use of staff;

47 G. Honoraria;

49 H. Improper inducement;

51 I. Improper communication; and

1 J. The appearance of impropriety.

3 2. Revision. The code shall be revised as considered
5 appropriate or necessary by the Legislature or on recommendation
7 of the commission.

9 Sec. 12. 5 MRSA §19, sub-§2, ¶A, as enacted by PL 1979, c. 734,
§2, is repealed and the following enacted in its place:

11 A. The actual name and address and nature of each and every
13 bona fide source of income to that employee, the employee's
15 spouse or dependent children that exceeds \$500 during the
17 preceding calendar year; and

19 STATEMENT OF FACT

21 This bill incorporates the recommendations of the Commission
23 to Study Ethics in State Government as reported in December,
25 1988. The bill changes the composition of the Commission on
Governmental Ethics and Election Practices, requires that
commission and the Attorney General to conduct ethics seminars
for Legislators and amends current legislative ethics laws.

27 In addition, the bill restricts the lobbying activity of
29 former Legislators and requires the Legislature to enact
disciplinary guidelines and a code of ethics.