

MAINE STATE LEGISLATURE

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DATE: *March 23, 1998*

(Filing No. S-586)

LEGAL AND VETERANS AFFAIRS

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 786, L.D. 2113, Bill, "An Act to Establish Ethical Standards for the Office of Governor"

Amend the bill by inserting after section 1 the following:

'Sec. 2. 1 MRSA §1004, as amended by PL 1977, c. 252, §1, is further amended to read:

§1004. Meetings

~~The President of the Senate and the Speaker of the House~~
Secretary of State shall jointly call an organizational meeting of the commission within 10 days after the members have taken their oaths of office. Thereafter, the commission shall meet on the call of the Secretary of State ~~or of~~ the Speaker of the House ~~or~~ the President of the Senate or the Governor to perform the duties required of it or as specifically provided in this chapter. The commission shall also meet at other times at the call of the ~~chairman~~ chair or at the call of a majority of the members, provided all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.'

Further amend the bill by striking out all of sections 4 and 5 and inserting in their place the following:

'Sec. 4. 1 MRSA §1008, sub-§1, as enacted by PL 1975, c. 621, §1, is amended to read:

1. **Ethics.** To investigate and make advisory recommendations to the appropriate--body Governor and the Legislature of any apparent violations of the ethical standards set by--the Legislature forth in this chapter;'

Further amend the bill in section 9 in the first line (page 3, line 1 in L.D.) by striking out the following: "~~sub-§§5, 6 and 8~~" and inserting in its place the following: 'sub-§§5 and 6'

Further amend the bill in section 9 in subsection 5 in the last line (page 3, line 11 in L.D.) by striking out all of the following: "a member of the Legislature" and inserting in its place the following: '~~a--member--of--the--Legislature~~ an elected state official'

Further amend the bill in section 9 by inserting after subsection 6 the following:

'Sec. 10. 1 MRSA §1012, sub-§7-A is enacted to read:

7-A. Legislative matter. "Legislative matter" means a bill before the current session of the Legislature which, if passed, will require the Governor to exercise the Governor's powers under the Constitution of Maine, Article IV, Part Third, Section 2.

Sec. 11. 1 MRSA §1012, sub-§8, as enacted by PL 1989, c. 561, §4, is amended to read:'

Further amend the bill in section 10 in subsection 1 by striking out all of paragraphs A to C and inserting in their place the following:

A. To issue, on request of any Legislator on an issue involving himself that Legislator, or on its own motion, advisory opinions and guidelines on problems or questions involving possible conflicts of interest in matters under consideration by, or pertaining to, the Legislature;

B. To investigate complaints filed by Legislators, or on its own motion, alleging conflict of interest against any Legislator, to hold hearings thereon if the commission deems determines appropriate and to issue publicly findings of fact together with its opinion; and

C. To administer the disclosure of sources of income by Legislators as required by this subchapter.;

D. To issue, on request of the Governor on an issue involving the Governor, or on its own motion, advisory

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2 opinions and guidelines involving possible conflicts of
interest on any legislative matter; and

4 E. To investigate complaints filed by the Governor alleging
conflict of interest on a legislative matter against any
6 Legislator, any complaints filed against the Governor by any
Legislator or on its own motion alleging conflict of
8 interest on any legislative matter or on a matter when the
Governor has directly intervened in a specific case before
10 an executive agency on behalf of a person with the intent of
affecting the ultimate outcome of the issue in question.'

12
14 Further amend the bill in section 11 in subsection 2 in
16 paragraph B by striking out all of the last 8 lines (page 4,
lines 39 to 46 in L.D.) and inserting in their place the
18 following: 'issue its findings to the Governor, the Secretary of
State, the President of the Senate and the Speaker of the House.'

20 Further amend the bill in section 11 in subsection 2 in
22 paragraph F in the 6th and 7th lines (page 6, lines 9 and 10 in
L.D.) by striking out the following: "that a conflict of interest
24 has occurred" and inserting in its place the following: '~~that-a~~
~~conflict-of-interest-has-occurred'~~

26 Further amend the bill in section 11 in subsection 2 in
28 paragraph F in the last line (page 6, line 12 in L.D.) by
inserting at the end the following: 'Nothing in this chapter may
be read to create or extinguish any criminal action or the right
30 to bring such an action.'

32 Further amend the bill in section 11 in subsection 2 in
34 paragraph G in the last 3 lines (page 6, lines 21 to 23 in L.D.)
by striking out the following: "The complainant may appeal such
36 an order, if a Legislator, to the House of which he the
complainant is a member or, if the Governor, to the Senate." and
38 inserting in its place the following: '~~The-complainant-may-appeal~~
~~such-an-order-to-the-House-of-which-he-is-a-member.'~~

40 Further amend the bill in section 11 in subsection 2 in
42 paragraph H in the 5th line (page 6, line 35 in L.D.) by
inserting after the following: "House" the following: 'and the
Office of the Governor'

44 Further amend the bill in section 11 in subsection 2 in
46 paragraph I in the 3rd line (page 6, line 46 in L.D.) by
inserting after the following: "House" the following: 'and the
Office of the Governor'

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2 Further amend the bill in section 11 in subsection 2 by
striking out all of paragraph K and inserting in its place the
following:

4
6 'K. When a Legislator has a question or problem of an
emergency nature about a possible conflict of interest or an
8 issue ~~involving-himself-which~~ that arises during the course
of legislative action, ~~he~~ the Legislator may request an
10 advisory opinion from the presiding officer of the
legislative body of which ~~he~~ the Legislator is a member.
12 The presiding officer may, at ~~his~~ the presiding officer's
discretion, issue an advisory opinion, which shall must be
14 in accordance with the principles of this subchapter, ~~which~~
~~shall~~ must be in writing, and ~~which-shall~~ must be reported
to the commission. The commission may then issue a further
16 opinion on the matter. The presiding officer may refer ~~such~~
the question or problem directly to the commission, which
18 shall must meet as soon as possible to consider the question
or problem.'

20
22 Further amend the bill in section 12 in that part designated
"§1014." in subsection 1 in paragraph E in the 4th line (page 8,
line 20 in L.D.) by inserting after the following: "judgment,"
24 the following: 'on a legislative matter.'

26
28 Further amend the bill in section 12 in that part designated
"§1014." in subsection 1 in paragraph E in the 14th line (page 8,
line 30 in L.D.) by striking out the following: "legislative
action or executive action" and inserting in its place the
30 following: 'legislative action on legislative matters'

32
34 Further amend the bill in section 12 in that part designated
"§1014." in subsection 2 in the 3rd and 4th lines (page 8, lines
47 and 48 in L.D.) by striking out all of the following: "or the
Governor"

36
38 Further amend the bill in section 12 in that part designated
"§1014." in subsection 2 in paragraph A in subparagraph (1) in
the last line (page 9, line 11 in L.D.) by striking out the
40 following: "action." and inserting in its place the following:
'action; and'

42
44 Further amend the bill in section 12 in that part designated
"§1014." in subsection 2 in paragraph A by striking out all of
subparagraph (2) (page 9, lines 13 and 14 in L.D.)

46
48 Further amend the bill in section 12 in that part designated
"§1014." by inserting after subsection 3 the following:

2 '4. Abuse of Executive Office. The Governor is determined
3 to have a conflict of interest when the Governor takes action on
4 a nonlegislative matter only when:

5 A. The Governor directly intervenes in a specific case
6 before an executive agency on behalf of a person with the
7 intent of affecting the ultimate outcome of the issue in
8 question; and

9 B. The Governor has an interest in the issue that would
10 constitute a conflict in a legislative matter as described
11 in this chapter.'

12 Further amend the bill by striking out all of sections 14 to
13 20.

14 Further amend the bill by relettering or renumbering any
15 nonconsecutive Part letter or section number to read
16 consecutively.

17 Further amend the bill by inserting at the end before the
18 summary the following:

19 **FISCAL NOTE**

20 The costs associated with investigating any additional
21 violations can be absorbed by the Commission on Governmental
22 Ethics and Election Practices utilizing existing budgeted
23 resources.'

24 **SUMMARY**

25 This amendment changes which party may call an
26 organizational meeting of the Commission on Governmental Ethics
27 and Election Practices from the President of the Senate and the
28 Speaker of the House to the Secretary of State. This amendment
29 removes the requirement that the commission conduct an ethics
30 seminar for the Governor, clarifies the definition of
31 "honorarium" and defines "legislative matter." It provides that
32 the commission has the authority to issue advisory opinions to
33 the Governor and investigate complaints by the Governor against a
34 Legislator.

35 This amendment adds the Governor and the Secretary of State
36 to the list of those to whom the commission reports when dealing
37 with complaints against the Governor. It also removes the
38 requirement of a press release when presenting findings of an
39 investigation of complaints against the Governor.

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2 This amendment requires that commission advisory opinions
4 and findings regarding complaints be filed with the Office of the
 Governor in addition to the Clerk of the House.

6 It also adds a section that defines abuse of executive
8 office.

10 It also adds a fiscal note to the bill.