

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1111

H.P. 766

House of Representatives, March 20, 2009

An Act To Promote Transparency and Accountability in Campaigns and Governmental Ethics

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TRINWARD of Waterville.

Cosponsored by Senator SULLIVAN of York and

Representatives: BECK of Waterville, BOLAND of Sanford, CAREY of Lewiston, DILL of Cape Elizabeth, HINCK of Portland, HOGAN of Old Orchard Beach, RUSSELL of Portland, WEBSTER of Freeport.

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

2 **Sec. 1. 1 MRSA §1002, sub-§2**, as amended by PL 2007, c. 571, §1, is further
3 amended to read:

4 **2. Qualifications.** The members of the commission must be persons of recognized
5 judgment, probity and objectivity. A person may not be appointed to this commission
6 who is a member of the Legislature or who was a member of the previous Legislature,
7 who was a declared candidate for an elective county, state or federal office within 2 years
8 prior to the appointment or who now holds an elective county, state or federal office, who
9 is an officer of a political committee, party committee or political action committee or
10 who holds a position in a political party or campaign. ~~A person may not serve on the~~
11 ~~commission who is an officer, director, employee or primary decision maker of a party~~
12 ~~committee, political action committee or candidate committee authorized under Title 21-~~
13 ~~A, section 1013 A, subsection 1, paragraph B.~~ Each member shall file a disclosure with
14 the commission that states the member's financial interests and affiliations with outside
15 organizations by February 15th of each year. If a member enters into any new affiliations
16 or activities, the member shall file an updated disclosure within 21 days.

17 **Sec. 2. 1 MRSA §1012, sub-§1**, as repealed and replaced by PL 1989, c. 561, §4,
18 is amended to read:

19 **1. Close economic associate.** "Close economic ~~association~~ associate" means the
20 employers, employees, partners or clients of the Legislator or a member of the
21 Legislator's immediate family; ~~corporations~~ entities in which the Legislator or a member
22 of the Legislator's immediate family is an officer, director or agent or owns 10% or more
23 of the outstanding capital stock; a business ~~which~~ that is a significant unsecured creditor
24 of the Legislator or a member of the Legislator's immediate family; or a business of
25 which the Legislator or a member of the Legislator's immediate family is a significant
26 unsecured creditor.

27 **Sec. 3. 1 MRSA §1012, sub-§4, ¶A**, as enacted by PL 1989, c. 561, §4, is
28 amended to read:

29 A. Gifts received from a single source during the reporting period with an aggregate
30 value of \$300 \$25 or less;

31 **Sec. 4. 1 MRSA §1012, sub-§4, ¶C**, as amended by PL 2007, c. 642, §4, is
32 further amended to read:

33 C. A gift received from a relative or a friend who is not a registered lobbyist or
34 lobbyist associate under Title 3, section 313;

35 **Sec. 5. 1 MRSA §1012, sub-§4, ¶D**, as amended by PL 2007, c. 642, §4, is
36 further amended to read:

37 D. A subscription to a newspaper, news magazine or other news publication; ~~or~~

38 **Sec. 6. 1 MRSA §1012, sub-§4, ¶E**, as enacted by PL 2007, c. 642, §4, is
39 amended to read:

1 E. Legal services provided in a matter of legislative ethics;

2 **Sec. 7. 1 MRSA §1012, sub-§4, ¶F** is enacted to read:

3 F. A meal, if the meal is provided by industry or special interest organizations as part
4 of the informational program presented to a group of public servants and the cost is
5 under \$25; or

6 **Sec. 8. 1 MRSA §1012, sub-§4, ¶G** is enacted to read:

7 G. A meal, if the meal is a prayer breakfast or a meal served during a meeting to
8 establish a prayer breakfast and the cost is under \$25.

9 **Sec. 9. 1 MRSA §1014, sub-§1, ¶A**, as amended by PL 2007, c. 642, §7, is
10 further amended to read:

11 A. When a Legislator or a member of the Legislator's immediate family ~~has or~~
12 acquires a direct substantial personal financial interest, distinct from that of the
13 general public, in an enterprise that would be financially benefited by proposed
14 legislation, or derives a direct substantial personal financial benefit from close
15 economic association with a person known by the Legislator to have a direct financial
16 interest in an enterprise affected by proposed legislation or a close economic
17 associate of the Legislator will derive a financial benefit from, or be harmed by,
18 proposed legislation to a significantly greater extent than others in the same
19 enterprise, profession, trade, business or type of employment;

20 **Sec. 10. 1 MRSA §1014, sub-§1, ¶A-1** is enacted to read:

21 A-1. When a Legislator, a member of the Legislator's immediate family or a close
22 economic associate of the Legislator is a member of a small group of persons or
23 entities that will derive a significant financial benefit or harm from proposed
24 legislation;

25 **Sec. 11. 1 MRSA §1014, sub-§1, ¶D**, as amended by PL 2007, c. 642, §7, is
26 further amended to read:

27 D. Appearing for, representing or advocating on behalf of another before the
28 Legislature, unless without compensation and for the benefit of a citizen; and

29 **Sec. 12. 1 MRSA §1014, sub-§1, ¶E**, as amended by PL 2007, c. 642, §7, is
30 further amended to read:

31 E. When a Legislator or a member of the Legislator's immediate family accepts or
32 engages in employment that could impair the Legislator's judgment, or when the
33 Legislator knows that there is a substantial possibility that an opportunity for
34 employment is being afforded the Legislator or a member of the Legislator's
35 immediate family with intent to influence the performance of the Legislator's official
36 duties, or when the Legislator or a member of his immediate family stands to derive a
37 personal private gain or loss from employment, because of legislative action, distinct
38 from the gain or losses of other employees or the general community; and.

1 **Sec. 13. 1 MRSA §1014, sub-§1, ¶F**, as amended by PL 2007, c. 642, §7, is
2 repealed.

3 **Sec. 14. 1 MRSA §1014, sub-§2**, as amended by PL 2007, c. 642, §7, is repealed.

4 **Sec. 15. 1 MRSA §1014, sub-§2-A** is enacted to read:

5 **2-A. Undue influence.** It is a violation of legislative ethics for a Legislator to
6 engage in conduct that constitutes the exertion of undue influence, including, but not
7 limited to:

8 A. Appearing for, representing or advocating for another person in a matter before a
9 state agency or authority, for compensation other than compensation as a Legislator,
10 if the Legislator makes reference to that Legislator's legislative capacity,
11 communicates with the agency or authority on legislative stationery or makes threats
12 or implications relating to legislative action;

13 B. Appearing for, representing or advocating for another person in a matter before a
14 state agency or authority if the Legislator oversees the policies of the agency or
15 authority as a result of the Legislator's committee responsibilities, unless:

16 (1) The appearance, representation or advocacy is provided without
17 compensation and for the benefit of a constituent;

18 (2) The Legislator is engaged in the conduct of the Legislator's profession and is
19 in good standing with a licensing board that oversees the Legislator's profession;

20 (3) The appearance, representation or advocacy is provided before a court or
21 office of the judicial branch; or

22 (4) The representation consists of filing records or reports or performing other
23 routine tasks that do not involve the exercise of discretion on the part of the
24 agency or authority; and

25 C. Representing or assisting another person in the sale of goods or services to the
26 State, a state agency or a state authority, unless the transaction occurs after public
27 notice and competitive bidding.

28 **Sec. 16. 3 MRSA §315-A, sub-§1**, as enacted by PL 2005, c. 613, §1, is amended
29 to read:

30 **1. Registration.** The commission shall prepare and maintain a docket for the
31 registration of lobbyists and employers of lobbyists required to register pursuant to this
32 chapter. The registration docket and all supplementary files of information and materials
33 filed pursuant to this chapter must be open to public inspection during the office hours of
34 the commission. The docket must contain the name of the lobbyist and the person
35 employing the lobbyist, the business address of each, a photograph of the lobbyist, the
36 joint standing committees of the Legislature the lobbyist intends to lobby, the nature of
37 the business of the person employing the lobbyist and a statement as to the compensation
38 that the lobbyist will receive for lobbying services or, if an exact amount is not
39 ascertainable, the basis upon which the lobbyist will charge for services. This docket
40 must be updated on a monthly basis and arranged and indexed as follows:

1 A. An alphabetical listing of those persons who have employed a lobbyist, which
2 listing must indicate the names of all lobbyists employed by the employer; and

3 B. An alphabetical listing of those persons employed as lobbyists, which listing
4 must indicate the names of all persons by whom each lobbyist is employed.

5 The docket must be reestablished annually by the commission and the docket for any year
6 must be maintained and be available for public inspection in the office of the commission
7 for 4 years from the expiration of the docket.

8 **Sec. 17. 3 MRSA §315-A, sub-§2, ¶C**, as enacted by PL 2005, c. 613, §1, is
9 amended to read:

10 C. A profile of each registered lobbyist and lobbyist associate, including contact
11 information, the name of the lobbyist's employer or employers ~~and, if provided by the~~
12 ~~lobbyist or lobbyist associate~~, a photograph of the lobbyist or lobbyist associate, the
13 name of the joint standing committees of the Legislature before which the lobbyist or
14 lobbyist associate intends to appear, the nature of the business of the person
15 employing the lobbyist or lobbyist associate and a statement as to the compensation
16 that the lobbyist or lobbyist associate will receive for lobbying services or, if an exact
17 amount is not ascertainable, the basis upon which the lobbyist or lobbyist associate
18 will charge for services;

19 **Sec. 18. 3 MRSA §315-A, sub-§2, ¶E**, as amended by PL 2007, c. 630, §11, is
20 further amended to read:

21 E. For each employer, a list of all legislative actions that have been the subject of
22 lobbying for the year, including hyperlinks to the summary page of the Legislature's
23 publicly accessible website for each legislative document listed; and

24 **Sec. 19. 3 MRSA §315-A, sub-§2, ¶F**, as enacted by PL 2007, c. 630, §11, is
25 amended to read:

26 F. A list of officials in the executive branch as defined in section 312-A, subsection
27 10-C; and

28 **Sec. 20. 3 MRSA §315-A, sub-§2, ¶G** is enacted to read:

29 G. A list for each joint standing committee of the Legislature including the names
30 and photographs of the lobbyists or lobbyist associate who intend to lobby or appear
31 before that committee.

32 **Sec. 21. 3 MRSA §316, sub-§4-C**, as enacted by PL 2007, c. 630, §12, is
33 amended to read:

34 **4-C. Website of employer.** The address for the employer's publicly accessible
35 website; and

36 **Sec. 22. 3 MRSA §316, sub-§5**, as amended by PL 1993, c. 446, Pt. A, §13 and
37 affected by §20, is further amended to read:

1 **5. Compensation.** The amount of compensation that the lobbyist will receive for that
2 lobbyist's services or, if an exact amount is unascertainable, the basis upon which the
3 lobbyist will charge for those services;

4 **Sec. 23. 3 MRSA §316, sub-§6** is enacted to read:

5 **6. Photograph.** A photograph in digital format of the lobbyist. The lobbyist shall
6 provide the photograph to the commission. The commission may waive this requirement
7 if the lobbyist has security concerns; and

8 **Sec. 24. 3 MRSA §316, sub-§7** is enacted to read:

9 **7. Committees.** The names of the joint standing committees of the Legislature the
10 lobbyist intends to lobby.

11 **Sec. 25. 21-A MRSA §1013-A, sub-§1, ¶A,** as amended by PL 2007, c. 642, §9
12 and affected by §14, is further amended to read:

13 A. No later than 10 days after becoming a candidate and before accepting
14 contributions, making expenditures or incurring obligations, a candidate for state or
15 county office or a candidate for municipal office who has not filed a written notice in
16 accordance with section 1011, subsection 2, paragraph A shall appoint a treasurer.
17 The candidate or the candidate's spouse may not serve as treasurer, except that a
18 candidate certified in accordance with section 1125 may not serve as treasurer. The
19 candidate may have only one treasurer, who is responsible for the filing of campaign
20 finance reports under this chapter. A candidate shall register the candidate's name
21 and address and the name and address of the treasurer appointed under this section no
22 later than 10 days after the appointment of the treasurer. A candidate may accept
23 contributions personally or make or authorize expenditures personally, as long as the
24 candidate reports all contributions and expenditures to the treasurer. The treasurer
25 shall make a consolidated report of all income and expenditures and provide this
26 report to the commission.

27 (1) A candidate may appoint a deputy treasurer to act in the absence of the
28 treasurer. The deputy treasurer, when acting in the absence of the treasurer, has
29 the same powers and responsibilities as the treasurer. A candidate certified in
30 accordance with section 1125 may not serve as deputy treasurer. The candidate
31 or the candidate's spouse may not serve as deputy treasurer. When a treasurer
32 dies or resigns, the deputy treasurer may not assume the position of treasurer
33 unless the candidate appoints the deputy treasurer to the position of treasurer.
34 The candidate shall report the name and address of the deputy treasurer to the
35 commission no later than 10 days after the deputy treasurer has been appointed.

36 **Sec. 26. 21-A MRSA §1056-C** is enacted to read:

37 **§1056-C. Contribution limitations**

38 A committee required to register under this subchapter may not accept an aggregate
39 amount of contributions exceeding \$10,000 from any one source in an election cycle.

SUMMARY

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This bill concerns transparency and accountability in campaigns and legislative ethics. The bill amends the definition of "gift." The bill changes the provisions regarding conflict of interest and undue influence. It makes the legislative standard for conflict of interest more clear and requires that Legislators be financially affected to a significantly greater extent than members in the same enterprise, profession, trade, business or type of employment in order to have a conflict of interest. It requires lobbyists to submit a digital picture and a list of the committees they will be lobbying and the publishing of a lobbyist listing so that Legislators will have a better sense of who the lobbyist they interact with represents. It changes the definition of "close economic associate." It prohibits candidates and their spouses from serving as campaign treasurers and deputy treasurers. It establishes a contribution limit to political action committees of \$10,000 from any one source per election cycle.