

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1150

S.P. 350

In Senate, March 17, 2011

An Act To Improve the Administration of the Legislative Ethics Laws

Submitted by the Commission on Governmental Ethics and Election Practices pursuant to the Maine Revised Statutes, Title 1, section 1009.

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

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator FARNHAM of Penobscot.
Cosponsored by Representative: BEAULIEU of Auburn.

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

2 **Sec. 1. 1 MRSA §1013, sub-§1, ¶B,** as amended by PL 2007, c. 642, §6, is
3 further amended to read:

4 B. To investigate complaints alleging a violation of legislative ethics against any
5 Legislator, to investigate a possible violation of legislative ethics upon the
6 commission's own motion, to hold hearings on ~~those complaints~~ an alleged or
7 possible violation if the commission determines it is appropriate and to issue findings
8 of fact together with its opinion; and

9 **Sec. 2. 1 MRSA §1013, sub-§2, ¶B-1,** as enacted by PL 2007, c. 642, §6, is
10 amended to read:

11 B-1. Any person may file a complaint against a Legislator alleging a violation of
12 legislative ethics only as described in ~~section~~ sections 1014 and 1015. The complaint
13 must be filed in writing and signed under oath and must specify the facts of the
14 alleged violation citing the specific provisions of sections 1014 and 1015 that are
15 alleged to have been violated, the approximate date of the alleged violation and such
16 other information as the commission requires. A complainant shall agree in writing
17 not to disclose any information about the complaint during the time the commission
18 is determining whether or not to pursue the complaint or during the investigation of a
19 complaint. A complaint that does not meet the criteria of this paragraph is considered
20 incomplete and will not be forwarded to the commission.

21 (1) The Legislator against whom a complaint is filed must immediately be given
22 a copy of the complaint and the name of the complainant. Before deciding
23 whether to conduct an investigation or to hold any hearings, the commission shall
24 afford the Legislator an opportunity to answer the complaint in writing and in
25 person to the commission. The commission staff may gather preliminary factual
26 information that will assist the commission in deciding whether to conduct a full
27 investigation or to hold hearings.

28 (2) The commission shall consider only complaints against Legislators in office
29 at the time of the filing of the complaint and only complaints relating to activity
30 that occurred or was ongoing within 2 years of the complaint. Upon a majority
31 vote of the commission, the commission shall conduct an investigation and hold
32 hearings as it determines necessary.

33 (3) The commission shall issue its findings of fact together with its opinion
34 regarding the alleged violation of legislative ethics to the legislative body of
35 which the Legislator concerned is a member. That legislative body may take
36 whatever action it determines appropriate, in accordance with the Constitution of
37 Maine.

38 (4) If the commission determines that a Legislator has potentially violated
39 professional standards set by a licensing board, its opinion and such other
40 information as may be appropriate must be referred to the licensing board that
41 oversees the Legislator's professional conduct.

42 **Sec. 3. 1 MRSA §1013, sub-§2, ¶B-2** is enacted to read:

1 B-2. If the commission receives information other than through a complaint
2 suggesting that a Legislator may have committed a violation of legislative ethics, the
3 commission may commence an investigation or conduct hearings when there is
4 probable cause to believe that a violation has occurred. The commission may
5 consider only activities by a Legislator in office at the time of the investigation that
6 occurred or were ongoing within 2 years of the investigation. The commission shall
7 provide the Legislator with written notice of the possible violation and an opportunity
8 to be heard in accordance with the requirements of paragraph B-1. The commission's
9 consideration of the possible violation is subject to the confidentiality provisions of
10 subsection 3-A.

11 **Sec. 4. 1 MRSA §1016-C**, as enacted by PL 1991, c. 880, §2, is amended to read:

12 **§1016-C. Reports by legislative candidates**

13 A candidate, as defined in Title 21-A, section 1, subsection 5, for the Legislature who
14 is not required to file a report under section 1016-A ~~or~~, 1016-B or 1016-E shall file a
15 report containing the same information required of Legislators under sections 1016-A
16 ~~and~~, 1016-B and 1016-E no later than 5 p.m. on the first Monday in August preceding the
17 general election unless the candidate withdraws from the election in accordance with
18 Title 21-A, section 374-A by that date.

19 **Sec. 5. 1 MRSA §1019, 2nd ¶**, as amended by PL 1977, c. 252, §5, is further
20 amended to read:

21 If the commission determines that a Legislator has willfully failed to file a statement
22 required by this subchapter or has willfully filed a false statement, the Legislator ~~shall be~~
23 is presumed to have a conflict of interest ~~on every question and shall be precluded or~~
24 ~~punished~~ as provided in section ~~4015~~ 1014 on every question.

25 **SUMMARY**

26 This bill allows the Commission on Governmental Ethics and Election Practices to
27 investigate a possible violation of legislative ethics upon its own motion. The bill
28 requires the commission to allow a Legislator the opportunity to answer a complaint in
29 writing and in person before the commission decides to conduct an investigation. The
30 bill allows the commission to commence an investigation on information it receives other
31 than through a complaint filed against a Legislator. The bill fixes cross-references.