

# MAINE STATE LEGISLATURE

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1 *smc*

L.D. 54

2 Date: 5/20/19

(Filing No. S- 132)

## MAJORITY

### VETERANS AND LEGAL AFFAIRS

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#### STATE OF MAINE

#### SENATE

#### 129TH LEGISLATURE

#### FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 18, L.D. 54, Bill, "An Act To Limit the Influence of Lobbyists by Expanding the Prohibition on Accepting Political Contributions"

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

**Sec. 1. 1 MRSA §1012, sub-§10**, as enacted by PL 2007, c. 642, §5, is amended to read:

**10. Violation of legislative ethics.** "Violation of legislative ethics" means a violation of the prohibitions in section 1014 or ~~4015~~ 1015-A.

**Sec. 2. 1 MRSA §1013, sub-§2, ¶B-1**, as amended by PL 2011, c. 471, §2, is further amended to read:

B-1. Any person may file a complaint against a Legislator alleging a violation of legislative ethics only as described in sections 1014 and ~~4015~~ 1015-A. The complaint must be filed in writing and signed under oath and must specify the facts of the alleged violation citing the specific provisions of sections 1014 and ~~4015~~ 1015-A that are alleged to have been violated, the approximate date of the alleged violation and such other information as the commission requires. A complainant shall agree in writing not to disclose any information about the complaint during the time the commission is determining whether or not to pursue the complaint or during the investigation of a complaint. A complaint that does not meet the criteria of this paragraph is considered incomplete and will not be forwarded to the commission.

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

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

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

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

**Sec. 3. 1 MRSA §1015**, as amended by PL 2009, c. 286, §1, is repealed.

**Sec. 4. 1 MRSA §1015-A** is enacted to read:

**§1015-A. Campaign contributions and solicitations prohibited**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Contribution" has the same meaning as in Title 21-A, section 1012, subsection 2 and includes seed money contributions as defined in Title 21-A, section 1122, subsection 9, and, with respect to political action committees and ballot question committees, includes contributions as defined in Title 21-A, section 1052, subsection 3. "Contribution" does not include qualifying contributions as defined in Title 21-A, section 1122, subsection 7.

B. "Employer" has the same meaning as in Title 3, section 312-A, subsection 5. "Employer" does not include a lobbying firm.

C. "Legislative session" means the period of time after the convening of the Legislature and before final adjournment.

D. "Lobbying firm" means a partnership, corporation, limited liability company or unincorporated association that employs or contracts with more than one lobbyist or lobbyist associate and that receives or is entitled to receive monetary or in-kind compensation for engaging in lobbying, as defined in Title 3, section 312-A, subsection 9, either directly or through its employees or agents.

E. "Lobbyist" has the same meaning as in Title 3, section 312-A, subsection 10.

F. "Lobbyist associate" has the same meaning as in Title 3, section 312-A, subsection 10-A.

**2. Campaign contributions and solicitations prohibited during legislative session.** The following provisions prohibit certain contributions and solicitations and offers of contributions during a legislative session.

1       A. The Governor, a member of the Legislature, a constitutional officer or the staff or  
2       agent of these officials may not intentionally solicit or accept a contribution from a  
3       lobbyist, lobbyist associate, employer of a lobbyist or lobbying firm during a  
4       legislative session.

5       B. A lobbyist, lobbyist associate, employer of a lobbyist or lobbying firm may not  
6       intentionally give, offer or promise a contribution to the Governor, a member of the  
7       Legislature, a constitutional officer or the staff or agent of these officials during a  
8       legislative session.

9       C. The prohibitions in paragraphs A and B apply to contributions directly and  
10       indirectly solicited or accepted by or given, offered and promised to a political action  
11       committee, ballot question committee or party committee of which the Governor, a  
12       member of the Legislature, a constitutional officer or the staff or agent of these  
13       officials is a treasurer, officer or primary fund-raiser or decision maker.

14       D. The prohibitions in paragraphs A and B do not apply to the following:

15               (1) The solicitation or acceptance of a contribution from or the offer or promise  
16               of a contribution by a lobbyist, lobbyist associate, employer of a lobbyist or  
17               lobbying firm that is not the property of that lobbyist, lobbyist associate,  
18               employer of a lobbyist or lobbying firm;

19               (2) The solicitation or acceptance of a contribution from or the offer or promise  
20               of a contribution by an employer of a lobbyist or lobbying firm related to a  
21               special election to fill a vacancy from the time of announcement of the election  
22               until the election; or

23               (3) The solicitation or acceptance of a contribution from or the offer or promise  
24               of a contribution by a lobbyist or lobbyist associate related to a special election to  
25               fill a vacancy from the time of announcement of the election until the election if  
26               the lobbyist or lobbyist associate is eligible to vote or will be eligible to vote on  
27               the day of the election in the district where the special election will appear on the  
28               ballot.

29       **3. Campaign contributions and solicitations prohibited when Legislature not in**  
30       **legislative session. The following provisions prohibit certain contributions and**  
31       **solicitations and offers of contributions when the Legislature is not in legislative session.**

32       A. When the Legislature is not in legislative session, the Governor, a member of the  
33       Legislature or the staff or agent of these officials may not intentionally solicit or  
34       accept a contribution from a lobbyist or lobbyist associate unless the lobbyist or  
35       lobbyist associate is eligible to vote or will be eligible to vote on the day of the  
36       election in a district where the Governor or member of the Legislature will appear on  
37       the ballot.

38       B. When the Legislature is not in legislative session, a lobbyist or lobbyist associate  
39       may not intentionally give, offer or promise a contribution to the Governor, a member  
40       of the Legislature or the staff or agent of these officials unless the lobbyist or lobbyist  
41       associate is eligible to vote or will be eligible to vote on the day of the election in a  
42       district where the Governor or member of the Legislature will appear on the ballot.

1        C. The prohibitions in paragraphs A and B do not apply to the solicitation or  
2        acceptance of a contribution from or the offer or promise of a contribution by a  
3        lobbyist or lobbyist associate that is not the property of that lobbyist or lobbyist  
4        associate.

5        D. The prohibitions in paragraphs A and B do not apply to the solicitation or  
6        acceptance of a contribution from or the offer or promise of a contribution by an  
7        employer of a lobbyist or a lobbying firm.

8        **4. Campaign contributions and solicitations prohibited at all times.** The  
9        following provisions prohibit certain contributions and solicitations and offers of  
10       contributions at all times, regardless of whether the Legislature is in legislative session.

11       A. A gubernatorial or legislative candidate who is not the Governor or a member of  
12       the Legislature, or the staff or agent of a gubernatorial or legislative candidate, may  
13       not intentionally solicit or accept a contribution from a lobbyist or lobbyist associate  
14       unless the lobbyist or lobbyist associate is eligible to vote or will be eligible to vote  
15       on the day of the election in a district where the gubernatorial or legislative candidate  
16       will appear on the ballot.

17       B. A lobbyist or lobbyist associate may not intentionally give, offer or promise a  
18       contribution to a gubernatorial or legislative candidate who is not the Governor or a  
19       member of the Legislature, or the staff or agent of a gubernatorial or legislative  
20       candidate, unless the lobbyist or lobbyist associate is eligible to vote or will be  
21       eligible to vote on the day of the election in a district where the gubernatorial or  
22       legislative candidate will appear on the ballot.

23       C. The prohibitions in paragraphs A and B do not apply to the solicitation or  
24       acceptance of a contribution from or the offer or promise of a contribution by a  
25       lobbyist or lobbyist associate that is not the property of that lobbyist or lobbyist  
26       associate.

27       D. The prohibitions in paragraphs A and B do not apply to the solicitation or  
28       acceptance of a contribution from or the offer or promise of a contribution by an  
29       employer of a lobbyist or lobbying firm.

30       **5. Exceptions.** This section does not prohibit any of the following.

31       A. The solicitation, acceptance, offer or gift of money or anything of value for bona  
32       fide social events hosted for nonpartisan, charitable purposes.

33       B. The solicitation, acceptance, offer or promise of contributions to a member of the  
34       Legislature supporting that member's campaign for federal office.

35       C. The attendance of the Governor, a member of the Legislature, a constitutional  
36       officer, a gubernatorial or legislative candidate or the staff or agent of these persons  
37       at fund-raising events held by a municipal, county, state or national political party  
38       organized pursuant to Title 21-A, chapter 5, nor the advertisement of the expected  
39       presence of any such person at any such event, as long as any such person has no  
40       involvement in soliciting attendance at the event and all proceeds are paid directly to  
41       the political party organization hosting the event or a nonprofit charitable  
42       organization.

**6. Violations.** The commission may undertake investigations to determine whether any person has violated this section. A person who violates this section is subject to a civil penalty not to exceed \$1,000 for each violation, payable to the State and recoverable in a civil action. A contribution accepted in violation of this section must be returned to the contributor.

**Sec. 5. 1 MRSA §1016-G, sub-§3, ¶B**, as enacted by PL 2011, c. 634, §11, is amended to read:

B. The intentional filing of a false statement is a Class E crime. If the commission concludes that it appears that a Legislator has willfully filed a false statement, it shall refer its findings of fact to the Attorney General. If the commission determines that a Legislator has willfully failed to file a statement required by this subchapter or has willfully filed a false statement, the Legislator is presumed to have a conflict of interest on every question and must be precluded or subject to penalty as provided in section 1015.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

## SUMMARY

This amendment, which is the majority report of the committee, strikes and replaces the bill. The amendment reorganizes the structure of the current law prohibiting the Governor, members of the Legislature, constitutional officers and the staff or agents of these officials from soliciting or accepting contributions from a lobbyist, lobbyist associate, employer of a lobbyist or a lobbying firm while the Legislature is convened in session. The amendment clarifies that this prohibition does not apply to a contribution unless the contribution is the property of the lobbyist, lobbyist associate, employer of a lobbyist or lobbying firm.

The amendment also newly prohibits the Governor, a member of the Legislature or the staff or agent of these officials from soliciting or accepting contributions from a lobbyist or lobbyist associate when the Legislature is not in session, unless the lobbyist or lobbyist associate is eligible to vote or will be eligible to vote on the day of the election in a district where the Governor or member of the Legislature will appear on the ballot. Similarly, the amendment prohibits a gubernatorial or legislative candidate and the staff or agent of these persons from soliciting or accepting contributions from a lobbyist or lobbyist associate at any time unless the lobbyist or lobbyist associate is eligible to vote or will be eligible to vote on the day of the election in a district where the gubernatorial or legislative candidate will appear on the ballot.

The amendment further clarifies the authority of the Commission on Governmental Ethics and Election Practices to undertake investigations to determine whether any person has improperly solicited, accepted, given or promised a contribution. A contribution made in violation of the law must be returned to the contributor.

1       The amendment also makes a technical change to remove an obsolete cross-reference  
2       to a portion of law repealed in 2008.

3                                   **FISCAL NOTE REQUIRED**

4                                   (See attached)



# 129th MAINE LEGISLATURE

LD 54

LR 481(02)

## An Act To Limit the Influence of Lobbyists by Expanding the Prohibition on Accepting Political Contributions

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-132)  
Committee: Veterans and Legal Affairs  
Fiscal Note Required: Yes

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### Fiscal Note

Minor cost increase - General Fund  
Minor revenue increase - General Fund  
Minor revenue increase - Other Special Revenue Funds

### Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional fine revenue will increase General Fund and dedicated revenue by minor amounts.

### Fiscal Detail and Notes

Any additional costs to the Commission on Governmental Ethics and Election Practices as a result of changes to the rules regarding contributions from lobbyists and lobbyist employers are anticipated to be minor and can be absorbed within existing budgeted resources.