

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,
SECTION 164, SUBSECTION 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1975

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
AT THE
SPECIAL SESSION
January 2, 1974
to
March 29, 1974

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 1, 1974

CHAPTER 785

AN ACT Relating to Conflicts of Interest and Purchases by Governmental Units.

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

Sec. 1. R. S., T. 17, § 3104, amended. Section 3104 of Title 17 of the Revised Statutes, as amended by section 1 of chapter 247 of the public laws of 1967, is further amended to read as follows:

§ 3104. Conflicts of interest; purchases by the State

No trustee, superintendent, treasurer or other person holding a place of trust in any state office or public institution of the State ~~or any officer of a quasi-municipal corporation~~ shall be pecuniarily interested directly or indirectly in any contracts made in behalf of the State or of the institution ~~or of the quasi-municipal corporation~~ in which he holds such place of trust, and any contract made in violation hereof is void. If such officer or person or an official of any political subdivision of the State or an officer of a quasi-municipal corporation receives any drawbacks, presents, gratuities or secret discounts to his own use on account of such contracts, or from the profits in any materials, supplies or labor furnished or done for the State or such institution or such political subdivision or such quasi-municipal corporation, he shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months. This section shall not apply to purchases of the State by the Governor and Council under authority of Title 1, section 814.

~~In the absence of actual fraud, no officer of a quasi-municipal corporation shall be deemed to be pecuniarily interested directly or indirectly in any contracts made in behalf of the quasi-municipal corporation of which he is an officer merely because he is an officer, employee or stockholder of a private corporation contracting with the quasi-municipal corporation, unless such officer of a quasi-municipal corporation is directly or indirectly the owner of at least 10% of the stock of the private corporation~~

Sec. 2. R. S., T. 30, § 2250, additional. Title 30 of the Revised Statutes is amended by adding a new section 2250 to read as follows:

§ 2250. Definitions

As used in section 2251, the following terms shall have the following meanings, unless the context otherwise indicates.

1. **Body.** "Body" means the governing unit of a municipality or county, and any subunit of government of a municipality or county, including, but not limited to, agencies, authorities, boards, commissions and offices.

2. **Official.** "Official" means any elected or appointed member of a municipal or county government or of a quasi-municipal corporation.

3. Quasi-municipal corporation. "Quasi-municipal corporation" means any governmental unit embracing a portion of a municipality, a single municipality or several municipalities which is created by law to deliver public services but which is not a general purpose governmental unit. This definition shall include, but not be limited to, utility districts under the jurisdiction of the Public Utilities Commission and School Administrative Districts.

Sec. 3. R. S., T. 30, § 2251, amended. Section 2251 of Title 30 of the Revised Statutes, as amended, is further amended to read as follows:

§ 2251. Conflicts of interest

Certain proceedings of municipalities, counties and quasi-municipal corporations and ~~municipal~~ their officials are ~~void~~ voidable and actionable according to the following provisions.

1. Voting. The vote of a body is voidable ~~by~~ when any official of ~~a municipality~~ in his official position votes on any question in which he has a direct or an indirect pecuniary interest ~~is void~~.

2. Contracts. A contract, other than a contract obtained through properly advertised bid procedures, made by a municipality, county or quasi-municipal corporation during the term of ~~a municipal~~ an official of a body of the municipality, county or quasi-municipal corporation involved in the negotiation or award of the contract who has a direct or an indirect pecuniary interest in it is ~~void~~ voidable, except as provided in subsection 4.

3. Restrain proceedings. The Superior Court may restrain proceedings ~~in a municipality~~ in violation of this section on the application of at least 10 ~~taxable~~ residents of the municipality or county or area served by the quasi-municipal corporation.

Sec. 4. R. S., T. 30, § 2251, sub-§ 4, reenacted. Subsection 4 of section 2251 of Title 30 of the Revised Statutes, as amended and as last repealed by section 2 of chapter 445 of the public laws of 1973, is reenacted to read as follows:

4. Absence of actual fraud. In the absence of actual fraud, an official of a body of the municipality or county government or of a quasi-municipal corporation involved in a question or in the negotiation or award of a contract shall be deemed to have a direct or indirect pecuniary interest in a question or in a contract where he is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity to which the question relates or with which the unit of municipal or county government or the quasi-municipal corporation contracts only where the official is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

Where an official is deemed to have a direct or indirect pecuniary interest, the vote on the question or the contract shall not be voidable and actionable if the official makes full disclosure of his interest prior to any action being taken and if he abstains from voting, from the negotiation or award of the contract, and from otherwise attempting to influence a decision in which he has an interest. The official's disclosure and a notice of his abstention from

taking part in a decision in which he has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

Effective June 28, 1974

CHAPTER 786

AN ACT Relating to the Dredging, Filling or Otherwise Altering of Rivers, Streams and Brooks.

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

Sec. 1. R. S., T. 12, c. 313, sub-c. II, additional. Chapter 313 of Title 12 of the Revised Statutes is amended by adding a new subchapter II to read as follows:

SUBCHAPTER II

ALTERATION OF RIVERS, STREAMS AND BROOKS

§ 2206. Prohibitions

No individual person, firm, corporation, municipality, state agency or other legal entity shall dredge or cause to be dredged, fill or cause to be filled, or erect or cause to be erected a causeway, bridge, marina, wharf, dock or other permanent structure, in, on, over or abutting any river, stream or brook without first obtaining a permit therefor from the commissioner.

§ 2207. Permits; standards

If the applicant for the permit demonstrates to the satisfaction of the commissioner that the proposed activity will not unreasonably interfere with existing recreational and navigational uses; nor cause unreasonable soil erosion; nor unreasonably interfere with the natural flow of any waters; nor unreasonably harm any fish habitat or wildlife habitat; nor lower the quality of any waters, the commissioner shall grant the permit upon such terms as he deems necessary to insure that the proposed activity will comply with the foregoing standards.

In the event the river, stream or brook is utilized by a water company, a municipality or a water district as a source of supply, the applicant for the permit shall at the time of filing an application forward a copy of the application to the water company or water district by certified mail.

§ 2208. Hearings; appeals

In the event that an application for a permit is denied, or that it is granted upon terms objectionable to the applicant, the applicant may, within 30 days of receipt of notice of such decision, file a notice of appeal with the commissioner. The commissioner may then, within 30 days of receipt of such notice