

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

Date:

(Filing No. S-)

VETERANS AND LEGAL AFFAIRS

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” 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 ~~1015~~ 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 ~~1015~~ 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 ~~1015~~ 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.

COMMITTEE AMENDMENT

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

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

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

15 **Sec. 3. 1 MRSA §1015**, as amended by PL 2009, c. 286, §1, is repealed.

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

17 **§1015-A. Campaign contributions and solicitations prohibited**

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

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

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

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

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

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

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

38 **2. Campaign contributions and solicitations prohibited during legislative**
39 **session.** The following provisions prohibit certain contributions and solicitations and
40 **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 fade 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.

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

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

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

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

17 SUMMARY

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

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

36 The amendment further clarifies the authority of the Commission on Governmental
37 Ethics and Election Practices to undertake investigations to determine whether any person
38 has improperly solicited, accepted, given or promised a contribution. A contribution
39 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)