

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

—
S.P. 624 - L.D. 1806

An Act To Promote Transparency in Government

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

Sec. 1. 1 MRSA §1012, sub-§1-A, as enacted by PL 2003, c. 268, §1, is amended to read:

1-A. Associated organization. "Associated organization" means any organization in which a Legislator or a ~~Legislator's spouse~~ member of the Legislator's immediate family is a managerial employee, director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

Sec. 2. 1 MRSA §1012, sub-§7, as corrected by RR 2001, c. 1, §6, is amended to read:

7. Income. "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in kind; gross income derived from business; gains gross income derived from dealings in property, rents and royalties; gross income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of distributions from a partnership ~~income~~ or limited liability company; gross income from an interest in an estate or trust; prizes; and grants, but does not include gifts or honoraria. Income received in kind includes, but is not limited to, the transfer of property and options to buy or lease, and stock certificates. "Income" does not include: alimony and separate maintenance payments, child support payments or campaign contributions accepted for state or federal office or funds or other property held in trust for another, including but not limited to money to be spent on behalf of a client for payment of a licensing or filing fee.

~~A. Alimony and separate maintenance payments; or~~

~~B. Campaign contributions recorded and reported as required by Title 21-A, chapter 13.~~

Sec. 3. 1 MRSA §1012, sub-§7-A is enacted to read:

7-A. Managerial employee. "Managerial employee" means an employee of an organization whose position requires substantial control over the organization's decision making, business operations, financial management or contracting and procurement activities. For the purposes of this subsection, financial management does not include tasks that are considered clerical in nature.

Sec. 4. 1 MRSA §1012, sub-§8, as amended by PL 2009, c. 208, §4, is further amended to read:

8. Relative. "Relative" means an individual who is related to the Legislator or the Legislator's spouse or the Legislator's domestic partner as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, domestic partner, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister, and includes the fiance or fiancée of the Legislator.

Sec. 5. 1 MRSA §1012, sub-§8-A is enacted to read:

8-A. Reportable liability. "Reportable liability" means any unsecured loan of \$3,000 or more received from a person who is not a relative. "Reportable liability" does not include:

A. A credit card liability;

B. An educational loan made or guaranteed by a governmental entity, educational institution or nonprofit organization; or

C. A loan made from a state or federally regulated financial institution for business purposes.

Sec. 6. 1 MRSA §1016-A, as amended by PL 2007, c. 704, §1, is repealed.

Sec. 7. 1 MRSA §1016-B, as amended by PL 1991, c. 331, §1, is repealed.

Sec. 8. 1 MRSA §1016-C, as amended by PL 2011, c. 471, §4, is further amended to read:

§1016-C. Reports by legislative candidates

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

Sec. 9. 1 MRSA §1016-E, as enacted by PL 2007, c. 704, §2, is repealed.

Sec. 10. 1 MRSA §1016-F, as enacted by PL 2007, c. 704, §3, is repealed.

Sec. 11. 1 MRSA §1016-G is enacted to read:

§1016-G. Disclosure of specific sources of income, interests and reportable liabilities

Each Legislator shall annually file with the commission a statement identifying the sources of income received, positions held and reportable liabilities incurred during the preceding calendar year by the Legislator or members of the Legislator's immediate family. A Legislator who has completed service in the Legislature shall file the statement within 45 days of the Legislator's last day of service to disclose the sources of income in the Legislator's final calendar year of service.

1. Content of statement. The name and, where applicable, the job title of the individual earning or receiving the income must be disclosed, unless otherwise noted. Each source of income must be identified by name, address and principal type of economic or business activity. If disclosure of this type is prohibited by statute, rule or an established code of professional ethics, it is sufficient for the Legislator to specify the principal type of economic or business activity from which the income is derived.

The statement must identify:

A. If the Legislator is an employee of another person, firm, corporation, association or organization that has provided the Legislator with compensation of \$2,000 or more, the name and address of the employer. The Legislator shall identify the title and position held by the Legislator;

B. If the Legislator is self-employed, the name and address of the Legislator's business and each source of income derived from self-employment that represents more than 10% of the Legislator's gross income from self-employment or \$2,000, whichever is greater;

C. The name, address and principal economic or business activity of any corporation, partnership, limited liability company or other business in which the Legislator or members of the Legislator's immediate family own or control, directly or indirectly, more than 50% of the outstanding equity, whether individually or in the aggregate, that has received revenue of \$2,000 or more;

D. Each source of income of \$2,000 or more the Legislator derived from providing services as an attorney, the major areas of law practiced by the Legislator and, if associated with a law firm, the major areas of practice of the firm;

E. Each source of income of \$2,000 or more received by the Legislator;

F. The specific source of each gift received by the Legislator;

G. Each source of income of \$2,000 or more received by any member of the immediate family of the Legislator, except that the Legislator is not required to identify the names of dependent children. If the member of the Legislator's immediate family received income of \$2,000 or more in compensation, the Legislator shall identify the source of the compensation, the type of the economic activity and the title of the position held by the immediate family member;

H. Each source of honoraria of \$2,000 or more that the Legislator accepted;

I. Each executive branch agency before which the Legislator or any immediate family member has represented or assisted others for compensation;

J. Each state governmental agency, board or commission to which the Legislator, a member of the Legislator's immediate family or an associated organization has sold, rented or leased goods or services with a value of \$10,000 or more during the preceding calendar year and a description of the goods or services sold, rented or leased;

K. Each organization that is required under Title 21-A, chapter 13 to register with the commission as a political action committee or ballot question committee for which the Legislator is a treasurer, principal officer or principal fund-raiser or decision maker;

L. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the Legislator or a member of the Legislator's immediate family with any for-profit or nonprofit firm, corporation, association, limited liability company, partnership or business. For the purposes of this paragraph, service as a clerk of a corporation or as a registered agent authorized to receive service of any process, notice or other demand for a business entity is not considered a position with the corporation or business entity; and

M. All reportable liabilities incurred by the Legislator or a member of the Legislator's immediate family during the reporting period.

2. Time for filing. The following provisions govern the time for filing statements.

A. Each Legislator shall file with the commission by 5:00 p.m. on February 15th of each year on the form provided by the commission a statement of the sources of income, interests and reportable liabilities for the preceding calendar year required by subsection 1. Prior to the end of the first week in January of each year, the commission shall deliver a form to each Senator and member of the House of Representatives.

B. A Legislator shall file an updated statement concerning the current calendar year if the income, reportable liabilities or positions of the Legislator or an immediate family member, except for dependent children, substantially change from those disclosed in the Legislator's most recent statement. Substantial changes include, but are not limited to, a new employer that has paid the Legislator or a member of the Legislator's immediate family \$2,000 or more during the current year, another source that has provided the Legislator or a member of the Legislator's immediate family, excluding dependent children, with income that totals \$2,000 or more during the current year or the acceptance of a new position with a for-profit or nonprofit firm that is reportable under subsection 1, paragraph L. The Legislator shall file the updated statement within 30 days of the substantial change in income, reportable liabilities or positions.

3. Penalties. Penalties for violations of this section are as follows.

A. Failing to file a statement within 15 days of having been notified by the commission is a civil violation for which a fine of not more than \$100 may be adjudged. A statement is not considered filed unless it substantially conforms to the requirements of this subchapter and is properly signed. The commission shall determine whether a statement substantially conforms to the requirements of this subchapter.

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.

4. Rules, procedures and forms. The commission may adopt or amend rules to specify the reportable categories or types and the procedures and forms for reporting and to administer this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Public record. Statements filed under this section are public records. The commission shall publish on a publicly accessible website the completed forms of Legislators filed under this section.

Sec. 12. 1 MRSA §1017-A, as amended by PL 2007, c. 704, §4, is repealed.

Sec. 13. 1 MRSA §1018, as amended by PL 2001, c. 75, §2, is repealed.

Sec. 14. 1 MRSA §1019, as amended by PL 2011, c. 471, §5, is repealed.

Sec. 15. 5 MRSA §19, sub-§1, ¶¶A-1 and B-1 are enacted to read:

A-1. "Associated organization" means any organization in which an executive employee or a member of the executive employee's immediate family is a managerial employee, director, officer or trustee or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

B-1. "Domestic partner" means the partner of an executive employee who:

- (1) Has been legally domiciled with the executive employee for at least 12 months;
- (2) Is not legally married to or legally separated from an individual;
- (3) Is the sole partner of the executive employee and expects to remain so; and
- (4) Is jointly responsible with the executive employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.

Sec. 16. 5 MRSA §19, sub-§1, ¶G, as enacted by PL 1989, c. 561, §14, is amended to read:

G. "Immediate family" means a person's spouse, domestic partner or dependent children.

Sec. 17. 5 MRSA §19, sub-§1, ¶H, as enacted by PL 1989, c. 561, §14, is amended to read:

H. "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in-kind; gross income derived from business; ~~gains~~ gross income derived from dealings in property, rents and royalties; gross income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; ~~distributive share of distributions from a partnership income or limited liability company~~; gross income from an interest in an estate or trust; prizes; and grants, but does not include gifts or honoraria. Income received in-kind includes, but is not limited to, the transfer of property and options to buy or lease and stock certificates. "Income" does not include alimony and separate maintenance payments, child support payments or campaign contributions accepted for state or federal office or funds or other property held in trust for another, including but not limited to fees paid in advance or money to be spent on behalf of a client for payment of a licensing or filing fee.

Sec. 18. 5 MRSA §19, sub-§1, ¶H-1 is enacted to read:

H-1. "Managerial employee" means an employee of an organization whose position requires substantial control over the organization's decision making, business operations, financial management or contracting and procurement activities. For the purposes of this subsection, financial management does not include tasks that are considered clerical in nature.

Sec. 19. 5 MRSA §19, sub-§2, as amended by PL 2009, c. 524, §2, is repealed and the following enacted in its place:

2. Content of statement. Each executive employee shall annually file with the Commission on Governmental Ethics and Election Practices a statement identifying the sources of income received, positions held and reportable liabilities incurred during the preceding calendar year by the executive employee or members of the executive employee's immediate family. The name and, where applicable, the job title of the individual earning or receiving the income must be disclosed, unless otherwise noted. Each source of income must be identified by name, address and principal type of economic or business activity. If disclosure of this type is prohibited by statute, rule or an established code of professional ethics, it is sufficient for the executive employee to specify the principal type of economic or business activity from which the income is derived.

The statement must identify:

A. If the executive employee is an employee of another person, firm, corporation, association or organization that has provided the executive employee with compensation of \$2,000 or more, the name and address of the employer;

B. If the executive employee is self-employed, the name and address of the executive employee's business and each source of income derived from self-employment that represents more than 10% of the employee's gross income from self-employment or \$2,000, whichever is greater;

H. The name, address and principal economic or business activity of any corporation, partnership, limited liability company or other business in which the executive employee or members of the employee's immediate family own or control, directly or indirectly, more than 50% of the outstanding equity, whether individually or in the aggregate, that has received revenue of \$2,000 or more;

I. Each source of income of \$2,000 or more the executive employee derived from providing services as an attorney, the major areas of law practiced by the executive employee and, if associated with a law firm, the major areas of practice of the firm;

J. Each additional source of income of \$2,000 or more received by the executive employee;

K. The specific source of each gift received by the executive employee;

L. Each source of income of \$2,000 or more received by any member of the immediate family of the executive employee, except that the employee is not required to identify the names of dependent children. If the member of the executive employee's immediate family received income of \$2,000 or more in compensation, the executive employee shall identify the source of the compensation, the type of the economic activity and the title of the position held by the immediate family member;

M. Each source of honoraria of \$2,000 or more that the executive employee accepted;

N. Each executive branch agency before which the executive employee or a member of the employee's immediate family has represented or assisted others for compensation;

O. Each state governmental agency, board or commission to which the executive employee, a member of the employee's immediate family or an associated organization has sold, rented or leased goods or services with a value of \$10,000 or more during the preceding calendar year and a description of the goods or services sold, rented or leased;

P. Each organization that is required under Title 21-A, chapter 13 to register with the commission as a political action committee or ballot question committee for which the executive employee is a treasurer, principal officer or principal fund-raiser or decision maker of the organization;

Q. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the executive employee or a member of the employee's immediate family with any for-profit or nonprofit firm, corporation, association, limited liability company, partnership or business. For the purposes of this paragraph, service as a clerk of a corporation or as a registered agent authorized to receive service of any process, notice or other demand for a business entity is not considered a position with the corporation or business entity; and

R. All reportable liabilities incurred by the executive employee or members of the employee's immediate family during the reporting period.

Sec. 20. 5 MRSA §19, sub-§3, ¶B, as amended by PL 2001, c. 75, §3, is further amended to read:

B. Each executive employee shall file the annual report prior to the close of the 2nd week in April by 5:00 p.m. on April 15th of each year, unless that employee has filed an initial or updating report during the preceding 30 days; except that, if an elected or appointed executive employee or has already filed a report for the preceding calendar year pursuant to paragraph A, a report does not need to be filed.

Sec. 21. 5 MRSA §19, sub-§3, ¶C, as enacted by PL 1979, c. 734, §2, is repealed and the following enacted in its place:

C. An executive employee shall file an updated statement concerning the current calendar year if the income, reportable liabilities or positions of the executive employee or an immediate family member, excluding dependent children, substantially change from those disclosed in the employee's most recent statement. Substantial changes include, but are not limited to, a new employer that has paid the executive employee or immediate family member, excluding dependent children, \$2,000 or more during the current year, another source that has provided the employee with income that totals \$2,000 or more during the current year or the acceptance of a new position with a for-profit or nonprofit firm that is reportable under subsection 2, paragraph Q. The executive employee shall file the updated statement within 30 days of the substantial change in income, reportable liabilities or positions.

Sec. 22. 5 MRSA §19, sub-§3-A is enacted to read:

3-A. Filing upon termination of employment. An executive employee whose employment has terminated shall file a statement of finances as described in subsection 2 and a statement of positions as described in subsection 2-A within 45 days after the termination of employment relating to the final calendar year of the employment.

Sec. 23. 5 MRSA §19, sub-§4, as amended by PL 2007, c. 704, §7, is repealed and the following enacted in its place:

4. Penalties. Penalties for violation of this section are as follows.

A. Failing to file a statement within 15 days of having been notified by the Commission on Governmental Ethics and Election Practices is a civil violation for which a fine of not more than \$100 may be adjudged. A statement is not considered filed unless it substantially conforms to the requirements of Title 1, chapter 25, subchapter 2 and is properly signed. The commission shall determine whether a statement substantially conforms to such requirements.

B. The intentional filing of a false statement is a Class E crime. If the Commission on Governmental Ethics and Election Practices concludes that it appears that an executive employee has willfully filed a false statement, it shall refer its findings of fact to the Attorney General.

Sec. 24. 5 MRSA §19, sub-§7, as amended by PL 2011, c. 389, §1, is repealed.

Sec. 25. Rulemaking regarding reporting by estranged spouse or domestic partner. The Commission on Governmental Ethics and Election Practices shall adopt rules to exclude from the definition of "immediate family," for purposes of income reporting pursuant to the Maine Revised Statutes, Title 1, section 1016-G and Title 5, section 19, an estranged spouse or domestic partner of a Legislator or an executive employee. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor