

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Improve the Administration of the Legislative Ethics Laws

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

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

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

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

B-1. Any person may file a complaint against a Legislator alleging a violation of legislative ethics only as described in ~~section~~ sections 1014 and 1015. 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 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 §1013, sub-§2, ¶B-2 is enacted to read:

B-2. If the commission receives information other than through a complaint suggesting that a Legislator may have committed a violation of legislative ethics, the commission may commence an investigation or conduct hearings when there is probable cause to believe that a violation has occurred. The commission may consider only activities by a Legislator in office at the time of the investigation that occurred or were ongoing within 2 years of the investigation. The commission shall provide the Legislator with written notice of the possible violation and an opportunity to be heard in accordance with the requirements of paragraph B1. The commission's consideration of the possible violation is subject to the confidentiality provisions of subsection 3A.

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

§ 1016-C. Reports by legislative candidates

A candidate, as defined in Title 21A, section 1, subsection 5, for the Legislature who is not required to file a report under section 1016A or, 1016B or 1016E shall file a report containing the same information required of Legislators under sections 1016A and, 1016B and 1016E 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 21A, section 374A by that date.

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

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 shall be presumed to have a conflict of interest on every question and shall be precluded or punished as provided in section 10151014 on every question.

SUMMARY

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