

§18-A. Conflict of interest; contract with the State

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

A. "State entity" means any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State. [PL 2001, c. 203, §2 (NEW).]

B. "Executive employee" has the same meaning as set forth in section 19, subsection 1, paragraph D except that "executive employee" includes employees of and members serving with the National Guard and employees of the University of Maine System, the Maine Maritime Academy and the state community colleges. [PL 2001, c. 203, §2 (NEW); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

[PL 2001, c. 203, §2 (NEW); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

2. Prohibition. An executive employee may not have any direct or indirect pecuniary interest in or receive or be eligible to receive, directly or indirectly, any benefit that may arise from any contract made on behalf of the State when the state entity that employs the executive employee is a party to the contract.

[PL 2001, c. 203, §2 (NEW).]

3. Violative contract void. Any contract made in violation of this section is void.

[PL 2001, c. 203, §2 (NEW).]

4. Exemptions. This section does not apply:

A. To purchases by the Governor under authority of Title 1, section 814; [PL 2001, c. 203, §2 (NEW).]

B. To contracts made with a corporation that has issued shares to the public for the general benefit of that corporation; [PL 2021, c. 332, §2 (AMD).]

C. If an exemption is approved by the Director of the Bureau of General Services within the Department of Administrative and Financial Services or the director's designee based upon one of the following and if the director gives notice of the granting of this exemption to all parties bidding on the contract in question with a statement of the reason for the exemption and if an opportunity is provided for any party to appeal the granting of the exemption:

(1) When the private entity or party that proposes to contract with the State and that employs the executive employee, based upon all relevant facts, is the only reasonably available source to provide the service or product to the State, as determined by the director; or

(2) When the director determines that the amount of compensation to be paid to the private entity or party providing the service or product to the State is de minimis; or [PL 2021, c. 332, §2 (AMD).]

D. To a contract by an employee organization to provide agency services under section 1816-B.

[PL 2021, c. 332, §2 (NEW).]

[PL 2021, c. 332, §2 (AMD).]

SECTION HISTORY

PL 2001, c. 203, §2 (NEW). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2021, c. 332, §2 (AMD).

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