



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

March 12, 2010

Hon. Jon Hinck  
2 State House Station  
Augusta, Maine 04333

Dear Representative Hinck:

Thank you for requesting an advisory opinion concerning whether you have a conflict of interest because of your service on the Joint Standing Committee on Utilities and Energy and your wife's employment. The advice in this opinion is based on the following information you provided in your February 10, 2010 letter and in your February 25, 2010 presentation to the Maine Commission on Governmental Ethics and Election Practices.

**Factual Information Provided to the Commission**

In the 123<sup>rd</sup> and 124<sup>th</sup> Legislatures, you have represented District 118 in the Maine House of Representatives. You were assigned to the Utilities and Energy Committee at the beginning of your tenure, and became House Chair of the committee last year.

Your wife, Juliet Browne, is an attorney in the private practice of law. As part of her practice, she seeks environmental permits on behalf of developers of energy projects, including wind power developers. Because of Ms. Browne's expertise, Governor John Baldacci appointed her in 2007 to a Task Force on Wind Power Development. In 2008, the work of the task force resulted in L.D. 2283 (123<sup>rd</sup> Legislature). The bill changed the permitting process for wind power projects in Maine, and was assigned to the Utilities and Energy Committee. You were not the House Chair of the committee at the time, and your role in shaping the legislation was quite small. The legislation was enacted unanimously in both chambers, and you voted for the bill.

L.D. 2283 did not result in any direct or indirect financial benefit to you or your wife. In general, you stated that you cannot recall having voted on any bill that would have any effect on your wife's compensation or that would result in a financial benefit or detriment to your family.

In your February 10 letter, you identified seven bills currently before the Legislature that could affect some of the businesses your wife has represented. Your understanding is that none of these bills will have any financial benefit for you or your wife. You intend to be very attuned to recusing yourself from any bill that later appears to result in a financial benefit.

**Advice from the Commission**

At the February 25, 2010 meeting, the Commission found that, based on the facts presented, you are not in a conflict of interest as defined by 1 M.R.S.A. § 1014(1). In reaching this conclusion, the Commission endorsed the reasoning of a June 10, 1983 advisory opinion of Maine Attorney General James E. Tierney. In that opinion, a Legislator had inquired whether she was prevented from voting on a bill because her husband had rendered legal advice to a client concerning the bill. After reviewing the legislative history of 21-A M.R.S.A. § 1014(1)(A), the Attorney General observed that

[I]t is clear that the Legislature never intended that a member of either House must be disqualified from voting on a proposal merely because she or a member of her immediate family is compensated for work performed for an employer or a client who might be affected by the legislation. The "direct substantial personal financial benefit" referred to in 1 M.R.S.A. § 1014(1)(A) must involve a financial reward separate and distinct from the remuneration one receives as an employee or agent for services rendered.

The Attorney General concluded that

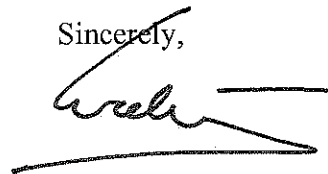
In short, §1014(1)(A) does not prevent a Legislator from voting on a measure unless she or a member of her immediate family will receive a financial benefit either directly or through a third party, by virtue of the proposed legislation.

The language of section 1014(1)(A) has not changed since the Attorney General interpreted it in 1983. Applying the reasoning of the 1983 opinion, the Commission determined that you do not have a conflict of interest.

Please be aware that the advice in this letter is based solely on the information you provided to the Commission. At the February 25 meeting, the Commission invited the public to offer additional information regarding your request, but no one in attendance expressed interest. If the Commission receives additional information from you or others in the future regarding these matters, the Commission's guidance to you may change.

Thank you for asking for advice from the Commission regarding the potential conflict of interest. If you have questions about the advice in this opinion, please telephone the Commission's Executive Director, Jonathan Wayne, at 287-4179.

Sincerely,



Walter F. McKee  
Chair