An Act To Prohibit Contributions, Expenditures and Participation by Foreign Government-owned Entities To Influence Referenda

(EMERGENCY)

Received by the Secretary of the Senate on January 25, 2021. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed.

Presented by Senator BENNETT of Oxford.
Cosponsored by Representative GROHOSKI of Ellsworth and
Senators: DAVIS of Piscataquis, LUCHINI of Hancock, Representatives: ANDREWS of Paris,
DOLLOFF of Milton Township, O'NEIL of Saco.
Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to apply in the current election cycle; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 21-A MRSA §1006 is enacted to read:

§1006. Referendum contributions, expenditures and participation by foreign government-owned entities prohibited

1. Definition. As used in this section, unless the context otherwise indicates, "foreign government-owned entity" means an entity with respect to which a foreign government holds, owns, controls or otherwise has direct or indirect beneficial ownership of 10% or more of the total equity, outstanding voting shares, membership units or other applicable ownership interests.

2. Contribution prohibited. A foreign government-owned entity may not make, directly or indirectly, a contribution of money or anything of value to influence a referendum.

3. Solicitation or acceptance of contribution prohibited. A person may not solicit, accept or receive a contribution described in subsection 2 from a foreign government-owned entity.

4. Expenditure prohibited. A foreign government-owned entity may not make, directly or indirectly, an expenditure to influence a referendum.

5. Participation prohibited. A foreign government-owned entity may not direct, dictate, control or directly or indirectly participate in the decision-making process of any person with regard to that person's activities to influence a referendum, such as decisions concerning the making of contributions or expenditures to influence a referendum.

6. Violation; penalty. Notwithstanding section 1004, subsection 1, a person that violates this section commits a civil violation for which a fine of not more than $100,000 or twice the amount of the contribution or expenditure involved in the violation, whichever is greater, may be adjudged. In assessing a penalty, the commission shall consider, among other things, whether the violation was intentional and whether the person who committed the violation attempted to conceal or misrepresent the identity of the foreign government-owned entity that made a direct or indirect contribution prohibited in subsection 2 or 3, that made a direct or indirect expenditure prohibited in subsection 4 or that directly or indirectly participated in the decision-making process of any person as prohibited in subsection 5.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.
SUMMARY

This bill provides that a foreign government-owned entity may not:

1. Make, directly or indirectly, a contribution of money or anything of value to influence a referendum;
2. Make, directly or indirectly, an expenditure to influence a referendum; or
3. Direct, dictate, control or directly or indirectly participate in the decision-making process of any person with regard to that person's activities to influence a referendum, such as decisions concerning the making of contributions or expenditures to influence a referendum.

It also provides that a person may not solicit, accept or receive a contribution to influence a referendum from a foreign government-owned entity.

It defines "foreign government-owned entity" as an entity with respect to which a foreign government holds, owns, controls or otherwise has direct or indirect beneficial ownership of 10% or more of the total equity, outstanding voting shares, membership units or other applicable ownership interests.