

Annual List of Rulemaking Activity
Rules Adopted January 1, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

Agency name: Commission on Governmental Ethics and Election Practices
Umbrella-Unit: 94-270
Statutory authority: 1 MRS §1003(1); 21-A MRS §1126
Chapter number/title: Ch. 3, Maine Clean Election Act and Related Provisions
Filing number: 2018-076
Effective date: 6/3/2018
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

The Commission wishes to enhance its online qualifying contribution service to better serve candidates seeking *Maine Clean Election Act* funding.

Basis statement:

The Commission adopted changes to its rules relating to candidates' submission of qualifying contributions (QCs) to receive *Maine Clean Election Act* (MCEA) funding. These rule amendments were adopted to facilitate administrative changes that will increase the efficiency of current procedures.

In order to qualify for a basic level of MCEA funding, candidates must submit by April 1 or 20 of the election year (depending on the office) a minimum number of QCs from registered voters in the geographical region for the office sought by the candidate. In addition, each candidate must submit receipt and acknowledgement forms (R&A Forms) signed by the contributors and an alphabetical list of the contributors and their towns (usually prepared in Microsoft Word or Excel).

Under the Commission's past procedures, when a candidate receives a QC by check or money order, the candidate must verify that the contributor is registered to vote by taking the R&A Forms signed by the contributors to the local registrars of voters for the municipalities in the district. (Candidates for Governor must do this statewide.) In the lower left corner of the form, the municipal registrar indicates the number of contributors who are registered to vote. Sometimes, the candidate or a campaign volunteer must make two trips to the municipal office to (1) drop off the R&A Forms, and (2) subsequently pick them up. This adds to the administrative work in qualifying for MCEA funding, especially for candidates in larger legislative districts or gubernatorial candidates.

In 2016, the Commission staff began administering - for the first time - a system of supplemental payments of MCEA funds, approved by voters in a November 2015 citizen initiative. Candidates seeking the higher levels of MCEA funding submitted up to eight additional batches of QCs, R&A Forms and alphabetical lists. Some candidates made submissions that were inadvertently incomplete or contained technical errors that needed to be fixed (e.g., a name was omitted from an alphabetical list; a contributor did not sign their name to the R&A Form; or a money order was not signed). As 2016 candidates submitted successive contributor lists to the Commission staff, this led to ongoing confusion for some candidates and campaign staff as to how many QCs had been submitted and had been approved by the Commission staff as valid.

The Commission has been working with InforME on an enhancement to the existing online QC service. This is the website currently used by members of the public to make a QC by credit card. The Commission has expanded the service to relate to QCs received by check or money order. Under this expansion:

- When a candidate is ready to submit a batch of checks or money orders to the Commission, he or she would log in to an administrative section of the website, and enter the names and residential addresses of their contributors. This would be an

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alternative or replacement for the current procedure of submitting alphabetical lists of QCs to the Commission in a Microsoft Excel or Word format.

- When done with the data entry, the candidate would click on an on-screen "Submit" button.
- The online QC service would attempt to verify whether the donors are registered to vote, by relying on data from the Secretary of State's central voter registry.
- Candidates could see a report of the submitted contributions. Those contributors whom the service could not verify would be printed on a special form, which the candidate could print out and bring to the municipal registrars.

This enhancement would eliminate the trips to the municipal office for many of the QCs received. The time savings for candidates in larger districts or gubernatorial candidates could be considerable. The only additional work would be typing the contributor's residential address in the online QC website, as compared to preparing a list of contributor names and municipalities in word or excel format.

The enhancement would also reduce confusion for candidates. The candidates could log into the system at any time to see a reliable list of submitted QCs and an accurate number of how many QCs had been approved by the Commission staff, or needed a remedy.

Fiscal impact of rule:

The Commission anticipates that the rule amendments will not have a fiscal impact on the State, the municipalities and counties of Maine, and will not impose an economic burden on small businesses.

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Umbrella-Unit: 94-270
Statutory authority: 1 MRS §1003(1)
Chapter number/title: Ch. 1, Procedures
Filing number: 2018-115
Effective date: 7/2/2018
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Commission wishes to clarify how candidates may finance activities after a primary election that is subject to ranked choice voting and during recounts of elections.

Basis statement:

Ch. 1 §6(7) governs the limitations on contributions that candidates for state office may receive. In order to address questions from gubernatorial candidates who expect that determining the 2018 primary election winners will take longer than usual (due to ranked choice voting), the Commission adopted an amendment that would allow candidates who are in a political party to continue to collect primary election contributions until the Secretary of State tabulates the primary election results. Under this change, candidates could use primary election contributions to fund their activities if there is a period of time during which the results of the primary election are uncertain. Once the general election winner is determined, that candidate could rely on general election contributions for their campaign. The Commission's amendment also deleted two "notwithstanding clauses" from Ch. 1 §§ 6(7)(B)&(D) that were unnecessary and potentially confusing.

In addition, the amendments incorporated into Ch. 1 §6(7)(O) policies set out in 21-A MRS §1018-A permitting candidates to receive donations of goods or services for purposes of a recount of an election, with some limitations.

Fiscal impact of rule:

The Commission anticipates that the rule amendments will not have a fiscal impact on the State, the municipalities and counties of Maine, and will not impose an economic burden on small businesses.