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An Act To Amend the Laws Governing Campaign Finance Reports and the Maine Clean Election Act

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

PART A

Sec. A-1. 21-A MRSA §1011, 2nd ¶, as enacted by PL 1995, c. 483, §2, is amended to read:

Candidates for municipal office as defined in Title 30-A, section 2502, subsection 1 ~~and referenda as defined in Title 30-A, section 2502, subsection 2~~ are governed by this subchapter, with the following provisions:

Sec. A-2. 21-A MRSA §1014, sub-§1, as amended by PL 2007, c. 443, Pt. A, §9, is further amended to read:

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section. A communication financed by a candidate or the candidate's committee ~~that is made through a broadcasting station~~ is not required to state the address of the candidate or committee that financed the communication.

Sec. A-3. 21-A MRSA §1014, sub-§3-A, as enacted by PL 1991, c. 839, §9, is amended to read:

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a ~~cause to be voted upon at referendum ballot question~~. Any in-kind contributions of printed materials used or distributed by a candidate, political

committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

~~The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.~~

Sec. A-4. 21-A MRSA §1014-A, as enacted by PL 1995, c. 43, §1, is repealed.

Sec. A-5. 21-A MRSA §1017, sub-§3-A, ¶D-1, as enacted by PL 2007, c. 642, §10, is amended to read:

D-1. Reports must be filed no later than 5:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, except that this report is not required for candidates for municipal office.

Sec. A-6. 21-A MRSA §1017, sub-§3-B, as amended by PL 2007, c. 443, Pt. A, §16, is further amended to read:

3-B. Accelerated reporting schedule. Additional reports are required from nonparticipating candidates, as defined in section 1122, subsection 5, pursuant to this subsection.

A. In addition to other reports required by law, any candidate for Governor, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under chapter 14 and who receives, spends or obligates more than the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the commission, within 48 hours of that event, a report with the commission detailing the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures to date.

B. A nonparticipating candidate who is required to file a report under paragraph A shall file no later than 5:00 p.m.:

(1) ~~A~~For legislative candidates in a primary election only, a report on the 42nd day before the date on which ~~an~~ a primary election is held that is complete as of the 44th day before that date;

(2) For gubernatorial candidates only, a report on the 25th day before the date on which an election is held that is complete as of the 27th day before that date;

(3) A report on the 18th day before the date on which an election is held that is complete as of the 20th day before that date; and

(4) A report on the 6th day before the date on which an election is held that is complete as of the 8th day before that date.

The reports must contain the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures as of the end date of the reporting period.

The nonparticipating candidate shall file only those reports that are due after the date on which the candidate filed the report required under paragraph A.

C. A candidate who is required to file a report under paragraph A must file with the commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than 24 hours before 11:59 p.m. on the date of that election:

(1) For a candidate for Governor, a single expenditure of \$1,000;

(2) For a candidate for the state Senate, a single expenditure of \$750; and

(3) For a candidate for the state House of Representatives, a single expenditure of \$500.

A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure.

The commission shall provide forms to facilitate compliance with this subsection. The commission shall notify a candidate within 48 hours if an amount reported on any report under paragraph B exceeds ~~1%~~ in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race and no report has been received under paragraph A.

Sec. A-7. 21-A MRSA §1017, sub-§5-A, ¶B, as amended by PL 2007, c. 443, Pt. A, §16, is further amended to read:

B. If the contribution is sold after the termination of the appropriate reporting period specified in subsections 2 to 4, the value of the contribution is the difference between the value of the contribution as originally reported by the treasurer and the amount of the purchase price paid at auction. Unless further reports are filed in relation to a later election in the same calendar year, the disposition of any net surplus or deficit in excess of \$50\$100 resulting from the difference between the auction price and the original contribution value must be reported in the same manner as provided in subsection 2, paragraph F or subsection 3-A, paragraph E, as appropriate.

Sec. A-8. 21-A MRSA §1017-A, sub-§1, as amended by PL 2007, c. 443, Pt. A, §17, is further amended to read:

1. Contributions. A party committee shall report all contributions in cash or in kind from a single contributor that in the aggregate ~~in a campaign~~ total more than \$200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of \$200 or less must be reported, and these contributions may be reported as a lump sum.

Sec. A-9. 21-A MRSA §1017-A, sub-§2, as amended by PL 2007, c. 443, Pt. A, §17, is further amended to read:

2. Expenditures to support or oppose candidates, others. A party committee shall report all expenditures ~~in cash or in kind of the committee made on behalf of~~ made to support or oppose a candidate, political committee, political action committee or party committee registered under this chapter. The party committee shall report:

- A. The name of each candidate, political committee, political action committee or party committee;
- B. The office sought by a candidate and the district that the candidate seeks to represent; and
- C. The date, amount and purpose of each expenditure.

Sec. A-10. 21-A MRSA §1017-A, sub-§3, as amended by PL 2007, c. 443, Pt. A, §17, is further amended to read:

3. Other expenditures. Operational expenses and other expenditures ~~in cash or in kind of the party committee that are not made on behalf of~~ to support or oppose a candidate, committee, political action committee or campaign party committee must be reported separately. The party committee shall report:

- A. The name and address of each payee ~~or recipient~~;
- B. The purpose for the expenditure; and
- C. The date and amount of each expenditure.

Sec. A-11. 21-A MRSA §1017-A, sub-§4-A, ¶A, as amended by PL 2007, c. 443, Pt. A, §17, is further amended to read:

A. Quarterly reports must be filed by 11:59 p.m.:

- (1) On January 15th and must be complete up to ~~January 5th~~ December 31st;
- (2) On April 10th and must be complete up to March 31st;
- (3) On July 15th and must be complete up to ~~July 5th~~ June 30th; and
- (4) On October 10th and must be complete up to September 30th.

Sec. A-12. 21-A MRSA §1017-A, sub-§4-B, ¶A, as amended by PL 2007, c. 443, Pt. A, §17, is further amended to read:

A. Reports filed during an election year must be filed with the commission by 11:59 p.m. on:

(1) July 15th and be complete as of June 30th;

(2) The 11th day before the date on which the general election is held and must be complete up to the 14th day before that date; and

(3) January 15th and be complete as of December 31st.

Sec. A-13. 21-A MRSA §1020-A, sub-§2, as amended by PL 2007, c. 443, Pt. A, §21, is further amended to read:

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;

B. An error by the commission staff;

C. Failure to receive notice of the filing deadline; or

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service.

Sec. A-14. 21-A MRSA §1020-A, sub-§5-A, ¶A, as amended by PL 2003, c. 448, §4, is further amended to read:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; section 1017, subsection 4; and section 1019-B, subsection 3;

Sec. A-15. 21-A MRSA §1051, 2nd ¶, as enacted by PL 1987, c. 280, is repealed.

Sec. A-16. 21-A MRSA §1052, sub-§5, ¶A, as amended by PL 2007, c. 477, §2, is further amended to read:

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization whose purpose is to influence the outcome of an election, including a candidate election or ballot question;

(4) Any organization, including any corporation or association, that has as its major purpose initiating, promoting, defeating or influencing a candidate election, campaign or ballot question and that ~~spends~~receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose, including for the collection of signatures for a direct initiative or referendum in this State; and

(5) Any organization that does not have as its major purpose promoting, defeating or influencing candidate elections but that ~~spends~~receives contributions or makes expenditures aggregating more than \$5,000 in a calendar year for the purpose of promoting, defeating or influencing in any way the nomination or election of any candidate to political office; and

Sec. A-17. 21-A MRSA §1053, last ¶, as enacted by PL 2007, c. 443, Pt. A, §29, is repealed.

Sec. A-18. 21-A MRSA §1053-A is enacted to read:

§ 1053-A. Municipal elections

Organizations that qualify as political action committees under section 1052, subsection 5 and that are organized to influence elections on the municipal ballot in towns or cities with a population of 15,000 or more shall register and file reports with the municipal clerk as required by Title 30-A, section 2502. The reports must be filed in accordance with the reporting schedule in section 1059 and must contain the information listed in section 1060. A political action committee registered with the commission and that receives contributions or makes expenditures relating to a municipal election shall file a copy of the report containing such contributions or expenditures with the clerk in the subject municipality.

Sec. A-19. 21-A MRSA §1053-B is enacted to read:

§ 1053-B. Out-of-state political action committees

A political action committee organized outside of this State shall register and file reports with the commission in accordance with sections 1053 and 1058. The committee is not required to register and file reports if the committee's only financial activity within the State is to make contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and the committee has not raised and accepted any contributions during the calendar year to influence an election or campaign in this State.

Sec. A-20. 21-A MRSA §1056-B, as amended by PL 2007, c. 477, §4, is further amended to read:

§ 1056-B. Ballot question committees

Any person not defined as a political action committee who ~~solicits and~~ receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$5,000 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file ~~a report~~ reports with the commission in accordance with this section. ~~In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality.~~ Within 7 days of receiving contributions or making expenditures that exceed \$5,000, the person shall register with the commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of influencing in any way a ballot question. The commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fund-raisers and decision makers for the committee. In the case of a municipal election, the registration and reports must be filed with the clerk of that municipality.

1. Filing requirements. A report required by this section must be filed with the commission according to the reporting schedule that the commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059. After completing all financial activity, the committee shall terminate its campaign finance reporting in the same manner provided in section 1061. The committee shall file each report required by this section through an electronic filing system developed by the commission unless granted a waiver under section 1059, subsection 5.

2. Content. A report must contain an itemized account of each expenditure made to and contribution received from a single source aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name and address of each contributor, payee or creditor; and the occupation and principal place of business, if any, for any person who has made contributions exceeding \$100 in the aggregate. The filer is required to report only those contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and only those expenditures made for those purposes. The definitions of "contribution" and "expenditure" in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.

2-A. Contributions. For the purposes of this section, "contribution" includes, but is not limited to:

A. Funds that the contributor specified were given in connection with a ballot question;

B. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a ballot question;

C. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating or influencing in any way a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question; and

D. Funds or transfers from the general treasury of an organization filing a ballot question report.

3. Forms. A report required by this section must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

4. Records. A person filing a report required by this section shall keep records as required by this subsection for ~~one year~~4 years following the election to which the records pertain.

A. The filer shall keep a detailed account of all contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and all expenditures made for those purposes.

B. The filer shall retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

Sec. A-21. 21-A MRSA §1057, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

~~Any political action committee that makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State is required to register under section 1053 or 1053-B shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee until 10 days after the next election for 4 years following the election to which the records pertain.~~

Sec. A-22. 21-A MRSA §1058, as amended by PL 2007, c. 477, §5, is further amended to read:

§ 1058. Reports; qualifications for filing

~~A political action committee that is required to register with the commission under section 1053 or 1053-B shall file a report on its activities in that campaign reports with the commission on forms as prescribed by the commission according to the schedule in section 1059. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality.~~

Sec. A-23. 21-A MRSA §1059, first ¶, as amended by PL 2007, c. 571, §9, is further amended to read:

Committees required to register under section 1053, 1053-B or 1056-B shall file an initial campaign finance report at the time of registration and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the filing deadline.

Sec. A-24. 21-A MRSA §1059, sub-§2, ¶A, as amended by PL 2007, c. 443, Pt. A, §35, is further amended to read:

A. Quarterly reports must be filed:

- (1) On January 15th and must be complete as of ~~January 5th~~December 31st;
- (2) On April 10th and must be complete as of March 31st;
- (3) On July 15th and must be complete as of ~~July 5th~~June 30th; and
- (4) On October 10th and must be complete as of September 30th.

Sec. A-25. 21-A MRSA §1060, sub-§4, as amended by PL 2007, c. 443, Pt. A, §36, is further amended to read:

4. Itemized expenditures. An itemization of each expenditure made ~~on behalf of to support or oppose~~ any candidate, campaign, political committee, political action committee and party committee or to support or oppose a referendum or initiated petition, including the date, payee and purpose of the expenditure; the name of each candidate, campaign, political committee, political action committee or party committee ~~on whose behalf the expenditure was made~~supported or opposed; and each referendum or initiated petition supported or opposed by the expenditure. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition, including, but not limited to, expenditures made during the signature gathering phase; the reason for the expenditure; and the date of the expenditure. The commission may specify the categories of expenditures that are to be reported to enable the commission to closely monitor the activities of political action committees;

Sec. A-26. 21-A MRSA §1060, sub-§7, as amended by PL 2007, c. 477, §7, is further amended to read:

7. Other expenditures. Operational expenses and other expenditures ~~in cash or in kind~~ that are not made on behalf of a candidate, committee or campaign, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those expenditures made for the purpose of promoting, defeating or influencing a ballot question or the nomination or election of a candidate to political office.

Sec. A-27. 21-A MRSA §1061, as amended by PL 2007, c. 443, Pt. A, §37, is further amended to read:

§ 1061. Dissolution of committees

~~Whenever any political action committee determines that it will no longer solicit or accept any contributions, incur any obligations, or make any expenditures to or on behalf of any candidate, political committee, party committee or political action committee to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition or election and the committee has no outstanding loans, debts or other obligations, the committee shall file a termination report that includes all financial activity from the end date of the previous reporting period through the date of termination with the commission. If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter. The committee must dispose of any surplus prior to termination. In the termination report, the committee shall report any outstanding loan, debt or obligation in the manner prescribed by the commission.~~

Sec. A-28. 21-A MRSA §1062-A, sub-§1, as enacted by PL 1995, c. 483, §21, is amended to read:

1. Registration. A political action committee required to register under section 1053 or 1053-B ~~or a ballot question committee required to register under section 1056-B~~ that fails to do so ~~in accordance with section 1053~~ or that fails to provide the information required by the commission for registration may be assessed a ~~forfeiture~~fine of \$250.

Sec. A-29. 21-A MRSA §1062-A, sub-§2, as amended by PL 2007, c. 443, Pt. A, §38, is further amended to read:

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;

B. An error by the commission staff; or

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service.

Sec. A-30. 21-A MRSA §1062-A, sub-§4, as enacted by PL 1995, c. 483, §21, is amended to read:

4. Maximum penalties. The maximum ~~penalties~~penalty under this subchapter ~~are~~is \$10,000 for reports required under section ~~1056-B or section 1059, subsection 2, paragraphs B, C and E~~ and \$5,000 for reports required under section ~~1059, subsection 2, paragraph A~~.

Sec. A-31. 21-A MRSA §1062-A, sub-§8-A, as enacted by PL 2003, c. 628, Pt. A, §9, is amended to read:

8-A. Penalties for failure to file report.~~The commission may assess a civil penalty for failure to file a report required by this subchapter.~~ The maximum penalty for failure to file a report required under section ~~1056-B or section 1059, subsection 2, paragraph B, C or E~~ is \$10,000. ~~The maximum penalty for failure to file a report required under section 1059, subsection 2, paragraph A is \$5,000.~~

PART B

Sec. B-1. 21-A MRSA §1122, sub-§7, as amended by PL 2007, c. 443, Pt. B, §2, is further amended to read:

7. Qualifying contribution. "Qualifying contribution" means a donation:

A. Of \$5 in the form of a check or a money order payable to the fund,~~and~~ signed by the contributor ~~and made in support of a candidate or made over the Internet in support of a candidate according to the procedure established by the commission;~~

B. Made by a registered voter within the electoral division for the office a candidate is seeking and whose voter registration has been verified ~~by the municipal registrar~~according to procedures established by the commission;

C. Made during the designated qualifying period; and

D. That the contributor acknowledges was made with the contributor's personal funds and in support of the candidate and was not given in exchange for anything of value and that the candidate acknowledges was obtained with the candidate's knowledge and approval and that nothing of value was given in exchange for the contribution, on forms provided by the commission.

Sec. B-2. 21-A MRSA §1125, sub-§5, ¶D-3, as enacted by PL 2007, c. 443, Pt. B, §6, is amended to read:

~~D-3. Not had prior requests for certification denied on the basis of substantial violations otherwise substantially violated the provisions of this chapter or chapter 13 or certification revoked under subsection 5-A, paragraphs C to G;~~

Sec. B-3. 21-A MRSA §1128, as enacted by IB 1995, c. 1, §17, is amended to read:

§ 1128. Study report

By ~~January 30, 2002~~March 15, 2011 and every ~~four~~4 years after that date, the commission shall prepare for the joint standing committee of the Legislature having jurisdiction over legal affairs a report documenting, evaluating and making recommendations relating to the administration, implementation and enforcement of the Maine Clean Election Act and Maine Clean Election Fund.

Sec. B-4. Routine technical rules. Notwithstanding the Maine Revised Statutes, Title 21-A, section 1126, rules adopted to establish procedures for verifying the voter registration of individuals making qualifying contributions are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Effective September 12, 2009