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H.P. 685

House of Representatives, March 18, 2015

An Act To Limit Agency Expenditures To Influence Elections

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative CHAPMAN of Brooksville.
Cosponsored by Senator GRATWICK of Penobscot and
Representatives: GOLDEN of Lewiston, HARLOW of Portland, MONAGHAN of Cape
Elizabeth.

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

2 **Sec. 1. 5 MRSA §59** is enacted to read:

3 **§59. Use of agency resources to influence elections**

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

6 A. "Agency" means a department, agency, office, board, division, bureau,
7 commission or council within the executive branch of State Government or within a
8 political subdivision of the State.

9 B. "Election" means the nomination or election of a person to a public office and the
10 direct initiative of legislation or a people's veto referendum that has been submitted to
11 the Secretary of State for approval pursuant to Title 21-A, section 901 or other
12 statewide referendum.

13 C. "Influencing the outcome of an election" means supporting or opposing an
14 election.

15 D. "Resource" means anything of value, including but not limited to money,
16 accounts, the work of personnel, credit, facilities, vehicles, postage,
17 telecommunications services, computer hardware and software, webpages, materials
18 and buildings.

19 **2. Prohibition.** Notwithstanding any other law, an agency may not make any
20 expenditure or use its resources for influencing the outcome of an election or make a
21 donation or contribution, whether cash or in kind, to another person for the purpose of
22 influencing the outcome of an election.

23 **3. Exceptions.** This subsection governs exceptions to this section.

24 A. An agency may expend money to produce and distribute an impartial factual
25 summary regarding the subject of a direct initiative of legislation, a people's veto
26 referendum or other statewide referendum if the summary contains a record of
27 arguments made both for and against the issue that is the subject of the direct
28 initiative of legislation, people's veto referendum or other statewide referendum and
29 does not contain a conclusion or the opinion of the agency in favor of or against the
30 issue.

31 B. An individual member or employee of an agency may expend personal funds,
32 make personal contributions or use personal time for influencing the outcome of an
33 election, subject to section 7056-A.

34 C. This section does not apply to:

35 (1) An official residence furnished or paid for by the State or a political
36 subdivision;

37 (2) A security officer who is required to accompany a candidate or the
38 candidate's family;

1 (3) A publicly owned motor vehicle provided for the use of the Governor or of
2 the executive head of the governing body of a political subdivision of the State;
3 or

4 (4) A publicly owned aircraft provided for security purposes for the use of the
5 Governor or the Governor's family or of the executive head of the governing
6 body of a political subdivision of the State or of that person's family except that,
7 if such a use is in whole or part for campaign purposes, the expenses relating to
8 the campaign must be reported and reimbursed.

9 **4. Enforcement.** The Attorney General or a private party whose pecuniary or
10 nonpecuniary interest in the outcome of an election is injured by an expenditure in
11 violation of this section, including but not limited to a registered ballot question
12 committee under Title 21-A, section 1056-B and a political action committee under Title
13 21-A, section 1052, subsection 5, may bring an action to enforce this section and seek
14 relief to enjoin an agency from violating this section and to require the agency to
15 reimburse the account from which an expenditure in violation of this section was made.

16 **Sec. 2. 5 MRSA §7056-A, sub-§1, ¶A,** as enacted by PL 1997, c. 498, §6, is
17 amended to read:

18 A. Interfering with or affecting the result of a partisan election or nomination for
19 elective office or the result of a direct initiative of legislation, a people's veto
20 referendum or other statewide referendum; or

21 **Sec. 3. 5 MRSA §7056-A, sub-§2, ¶¶A and B,** as enacted by PL 1997, c. 498,
22 §6, are amended to read:

23 A. Give or offer to give a political contribution to an individual to vote or refrain
24 from voting or to vote for or against any candidate or measure in any partisan election
25 or direct initiative of legislation, people's veto referendum or other statewide
26 referendum;

27 B. Solicit, accept or receive a political contribution to vote or refrain from voting or
28 to vote for or against any candidate or measure in any partisan election or direct
29 initiative of legislation, people's veto referendum or other statewide referendum;

30 **Sec. 4. 5 MRSA §7056-A, sub-§§3 and 7,** as enacted by PL 1997, c. 498, §6,
31 are amended to read:

32 **3. Political activity.** An officer or employee in the classified service or an employee
33 from the executive branch in the unclassified service of this State may not engage in
34 political activity:

35 A. When the employee is on duty;

36 B. In state-owned or leased work space occupied in the discharge of official duties or
37 by using the facilities or services of the State; or

38 C. When wearing a uniform or official insignia identifying the office or position of
39 the employee or while using a vehicle owned or leased by the State or its agencies.

1 As used in this subsection, "political activity" means to advocate expressly for the
2 election or defeat of any candidate for a federal office, a constitutional office or any
3 candidate for partisan elective municipal, county or state office, including leadership
4 positions in the Senate and the House of Representatives ~~or~~ to solicit contributions
5 reportable under Title 21-A, chapter 13 or to advocate for or against the passage or defeat
6 of a direct initiative of legislation, a people's veto referendum or other statewide
7 referendum.

8 **7. Exemption of official duties.** This section may not be construed to apply to any
9 actions taken in order to carry out the duties and responsibilities of an officer's or
10 employee's position, including but not limited to advocacy on policy issues or legislation,
11 subject to the prohibition against an agency's making any expenditure or using its
12 resources for influencing the outcome of an election or making a donation or
13 contribution, whether in cash or in kind, to another person for the purpose of influencing
14 the outcome of an election under section 59.

15 **SUMMARY**

16 This bill prohibits state agencies from expending public resources to influence the
17 outcome of a direct initiative of legislation, a people's veto referendum or other statewide
18 referendum except to provide an impartial factual summary regarding what is at issue. It
19 also extends the law governing the involvement of executive branch employees in
20 elections to include direct initiatives of legislation, people's veto referenda and other
21 statewide referenda.