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No. 1879

H.P. 1391

House of Representatives, March 14, 2012

**An Act To Treat Party Formation Committees the Same as Ballot
Question Committees for Purposes of the Campaign Finance Laws**

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative FOSSEL of Alna.
Cosponsored by Senator KATZ of Kennebec and
Representatives: BURNS of Whiting, FITZPATRICK of Houlton, HAYES of Buckfield,
McKANE of Newcastle, Speaker NUTTING of Oakland, O'CONNOR of Berwick, OLSEN of
Phippsburg, SIROCKI of Scarborough.

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

2 **Sec. 1. 1 MRSA §1002, sub-§2-B**, as enacted by PL 2007, c. 571, §3, is amended
3 to read:

4 **2-B. Annual disclosure statement.** Each member shall file a disclosure statement
5 with the executive director of the commission by February 15th of each year, which must
6 include:

7 A. The names of and the positions held in all candidate committees, political action
8 committees, ballot question committees, party formation committees and party
9 committees of which the member or the member's spouse or domestic partner was an
10 officer, director or primary decision maker or fund raiser during the previous calendar
11 year;

12 B. The names of and positions held in all nonprofit or commercial organizations of
13 which the member or the member's spouse or domestic partner was an owner, officer,
14 director or primary decision maker or fund raiser that, during the previous calendar
15 year, made expenditures of more than \$1,500 to influence an election or employed a
16 lobbyist who was required to register with the commission; and

17 C. Any additional information that the commission determines appropriate.

18 A member shall notify the executive director if the member becomes an officer, director,
19 employee or primary decision maker or fund raiser of a party committee, political action
20 committee, ballot question committee, party formation committee or candidate committee
21 within 21 days of the event.

22 **Sec. 2. 1 MRSA §1015, sub-§3, ¶B**, as amended by PL 2009, c. 286, §1, is
23 further amended to read:

24 B. The Governor, a member of the Legislature or any constitutional officer or the
25 staff or agent of the Governor, a member of the Legislature or any constitutional
26 officer may not intentionally solicit or accept a contribution from a lobbyist, lobbyist
27 associate or employer during any period of time in which the Legislature is convened
28 before final adjournment, except for a qualifying contribution as defined under Title
29 21-A, section 1122, subsection 7. A lobbyist, lobbyist associate or employer may not
30 intentionally give, offer or promise a contribution, other than a qualifying
31 contribution, to the Governor, a member of the Legislature or any constitutional
32 officer or the staff or agent of the Governor, a member of the Legislature or any
33 constitutional officer during any time in which the Legislature is convened before
34 final adjournment. These prohibitions apply to contributions directly and indirectly
35 solicited or accepted by, or given, offered and promised to a political action
36 committee, ballot question committee, party formation committee or party committee
37 of which the Governor, a member of the Legislature, a constitutional officer or the
38 staff or agent of these officials is a treasurer, officer or primary fund-raiser or
39 decision maker.

40 **Sec. 3. 21-A MRSA §1003, sub-§1**, as amended by PL 2011, c. 389, §3, is
41 further amended to read:

1 **1. Investigations.** The commission may undertake audits and investigations to
2 determine the facts concerning the registration of a candidate, treasurer, party committee,
3 political action committee, ballot question committee, party formation committee or other
4 political committee and contributions by or to and expenditures by a person, candidate,
5 treasurer, party committee, political action committee, ballot question committee, party
6 formation committee or other political committee. For this purpose, the commission may
7 subpoena witnesses and records whether located within or without the State and take
8 evidence under oath. A person or entity that fails to obey the lawful subpoena of the
9 commission or to testify before it under oath must be punished by the Superior Court for
10 contempt upon application by the Attorney General on behalf of the commission.

11 **Sec. 4. 21-A MRSA §1003, sub-§3-A, ¶B,** as enacted by PL 2007, c. 571, §6, is
12 amended to read:

13 B. Information belonging to a party committee, political action committee, ballot
14 question committee, party formation committee, candidate or candidate's authorized
15 committee that, if disclosed, would reveal sensitive political or campaign
16 information;

17 **Sec. 5. 21-A MRSA §1005,** as enacted by PL 2007, c. 571, §7, is amended to
18 read:

19 **§1005. Restrictions on commercial use of contributor information**

20 Information concerning contributors contained in campaign finance reports filed by
21 candidates, political action committees and party committees and reports filed under
22 ~~section~~ sections 1056-B and 1056-C may not be used for any commercial purpose,
23 including, but not limited to, the sales and marketing of products and services, or for
24 solicitations of any kind not directly related to activities of a political party, so-called "get
25 out the vote" efforts or activities directly related to a campaign as defined in section 1052.
26 Any person obtaining contributor information from the reports is prohibited from selling
27 or distributing it to others to use for commercial purposes and also is prohibited from
28 making publicly available the mailing addresses of contributors. This section does not
29 prohibit a political party, party committee, candidate committee, political action
30 committee or any other organization that has obtained contributor information from the
31 commission from providing access to such information to its members for purposes
32 directly related to party activities, so-called "get out the vote" efforts or a campaign as
33 defined in section 1052. A person who violates this section is subject to a fine of up to
34 \$5,000. A person who knowingly violates this section commits a Class E crime.

35 **Sec. 6. 21-A MRSA §1014, sub-§6,** as enacted by PL 2011, c. 389, §13, is
36 amended to read:

37 **6. Exclusions.** The requirements of this section do not apply to:

38 A. Handbills or other literature produced and distributed at a cost not exceeding \$100
39 and prepared by one or more individuals who are not required to register or file
40 campaign finance reports with the commission and who are acting independently of
41 and without authorization by a candidate, candidate's authorized campaign

1 committee, party committee, political action committee, party formation committee
2 or ballot question committee or an agent of a candidate, candidate's authorized
3 campaign committee, party committee, political action committee, party formation
4 committee or ballot question committee;

5 B. Campaign signs produced and distributed at a cost not exceeding \$100, paid for
6 by one or more individuals who are not required to register or file campaign finance
7 reports with the commission and who are acting independently of and without
8 authorization by a candidate, candidate's authorized campaign committee, party
9 committee, political action committee, party formation committee or ballot question
10 committee or an agent of a candidate, candidate's authorized campaign committee,
11 party committee, political action committee, party formation committee or ballot
12 question committee; and

13 C. Internet and e-mail activities costing less than \$100, as excluded by rule of the
14 commission, paid for by one or more individuals who are not required to register or
15 file campaign finance reports with the commission and who are acting independently
16 of and without authorization by a candidate, candidate's authorized campaign
17 committee, party committee, political action committee, party formation committee
18 or ballot question committee or an agent of a candidate, candidate's authorized
19 campaign committee, party committee, political action committee, party formation
20 committee or ballot question committee.

21 **Sec. 7. 21-A MRSA §1056-C** is enacted to read:

22 **§1056-C. Party formation committees**

23 A person not defined as a political action committee, who has filed a declaration of
24 intent pursuant to section 303 and who receives contributions or makes expenditures,
25 other than by contribution to a political action committee, aggregating in excess of \$2,500
26 for the purpose of encouraging a person to sign a petition to form a new party, shall file
27 reports with the commission in accordance with this section. Within 7 days of receiving
28 contributions or making expenditures that exceed \$2,500, the person shall register with
29 the commission as a party formation committee. For the purposes of this section,
30 expenditures include paid staff time spent for the purpose of gathering signatures to form
31 a new party. The commission must prescribe forms for the registration, and the forms
32 must include specification of a treasurer for the committee, any other principal officers
33 and all individuals who are the primary fund-raisers and decision makers for the
34 committee.

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

41 **2. Content.** A report must contain an itemized account of each expenditure made to
42 and contribution received from a single source aggregating in excess of \$100 in any
43 election; the date of each contribution; the date and purpose of each expenditure; the

1 name and address of each contributor, payee or creditor; and the occupation and principal
2 place of business, if any, for any person who has made contributions exceeding \$100 in
3 the aggregate. The filer is required to report only those contributions made to the filer for
4 the purpose of encouraging a person to sign a petition to form a new party and only those
5 expenditures made for those purposes. The definitions of "contribution" and
6 "expenditure" in section 1052, subsections 3 and 4, respectively, apply to persons
7 required to file party formation reports.

8 **3. Contributions.** For the purposes of this section, "contribution" includes, but is
9 not limited to:

10 A. Funds that the contributor specified were given in connection with a campaign;

11 B. Funds provided in response to a solicitation that would lead the contributor to
12 believe that the funds would be used specifically for the purpose of initiating or
13 influencing a campaign;

14 C. Funds that can reasonably be determined to have been provided by the contributor
15 for the purpose of gathering signatures to form a new party when viewed in the
16 context of the contribution and the recipient's activities regarding the gathering of
17 signatures to form a new party; and

18 D. Funds or transfers from the general treasury of an organization filing a party
19 formation report.

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

23 **5. Records.** A person filing a report required by this section shall keep records as
24 required by this subsection for 4 years following the election to which the records pertain.

25 A. The filer shall keep a detailed account of all contributions made to the filer for the
26 purpose of gathering signatures to form a new party and all expenditures made for
27 those purposes.

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

30 **Sec. 8. 21-A MRSA §1059, first ¶**, as amended by PL 2011, c. 389, §43 and
31 affected by §62, is further amended to read:

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

37 **Sec. 9. 21-A MRSA §1062-A, sub-§1**, as amended by PL 2009, c. 190, Pt. A,
38 §28, is further amended to read:

1 **1. Registration.** A political action committee required to register under section 1053
2 or 1053-B or a ballot question committee required to register under section 1056-B or a
3 party formation committee required to register under section 1056-C that fails to do so or
4 that fails to provide the information required by the commission for registration may be
5 assessed a fine of \$250.

6 **Sec. 10. 21-A MRSA §1062-A, sub-§4,** as amended by PL 2011, c. 389, §49, is
7 further amended to read:

8 **4. Maximum penalties.** The maximum penalty under this subchapter is \$10,000 for
9 reports required under section 1056-B, section 1056-C or section 1059, except that if the
10 financial activity reported late exceeds \$50,000, the maximum penalty is 1/5 of the
11 amount reported late.

12 **Sec. 11. 21-A MRSA §1062-A, sub-§8-A,** as amended by PL 2009, c. 190, Pt.
13 A, §31, is further amended to read:

14 **8-A. Penalties for failure to file report.** The commission may assess a civil penalty
15 for failure to file a report required by this subchapter. The maximum penalty for failure
16 to file a report required under section 1056-B, section 1056-C or section 1059 is \$10,000.

17 SUMMARY

18 This bill requires a group that receives or spends more than \$2,500 to form a new
19 political party to be treated in the same manner as a ballot question committee for
20 purposes of the campaign finance laws.