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Legislative Document

No. 1290

S.P. 465

In Senate, April 9, 2015

An Act To Repeal the Maine Clean Election Act and Direct the Savings To Be Used for the State's Contribution toward the Costs of Education Funding

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
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin.
Cosponsored by Representative LOCKMAN of Amherst and
Senators: DAVIS of Piscataquis, MASON of Androscoggin, VOLK of Cumberland,
WILLETTE of Aroostook, Representatives: O'CONNOR of Berwick, SANDERSON of
Chelsea, SAWICKI of Auburn, SIROCKI of Scarborough.

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

2 **Sec. 1. 1 MRSA §1008, sub-§2**, as amended by PL 2001, c. 430, §4, is further
3 amended to read:

4 **2. Election practices.** To administer and investigate any violations of the
5 requirements for campaign reports and campaign financing, ~~including the provisions of~~
6 ~~the Maine Clean Election Act and the Maine Clean Election Fund;~~

7 **Sec. 2. 1 MRSA §1008, sub-§4**, as amended by PL 2013, c. 129, §1, is further
8 amended to read:

9 **4. Lobbyist activities.** To administer the lobbyist disclosure laws, Title 3, chapter
10 15, and enforce the waiting period required before former Legislators may engage in
11 compensated lobbying as provided by section 1024; and

12 **Sec. 3. 1 MRSA §1008, sub-§5**, as enacted by IB 1995, c. 1, §6, is repealed.

13 **Sec. 4. 1 MRSA §1015, sub-§3, ¶A**, as amended by PL 2007, c. 279, §1, is
14 further amended to read:

15 A. As used in this subsection, the terms "employer," "lobbyist" and "lobbyist
16 associate" have the same meanings as in Title 3, section 312-A. As used in this
17 subsection, "contribution" has the same meaning as in Title 21-A, section 1012 ~~and~~
18 ~~includes seed money contributions as defined in Title 21-A, section 1122, subsection~~
19 ~~9.~~

20 **Sec. 5. 1 MRSA §1015, sub-§3, ¶B**, as amended by PL 2009, c. 286, §1, is
21 further amended to read:

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

37 **Sec. 6. 21-A MRSA §153-A, sub-§3**, as amended by PL 2005, c. 568, §6, is
38 further amended to read:

1 **3. Signing petitions.** Once an alternative registration signature statement is on file
2 with the registrar, the voter may authorize any other Maine-registered voter to sign
3 candidate petitions ~~and any Maine Clean Election Act forms~~ requiring a voter's signature
4 in the presence and at the direction of the voter, except that the individual assisting the
5 voter may not be a candidate, the circulator of the petition or form, the voter's employer
6 or an agent of that employer or an officer or agent of the voter's union. In addition to
7 using the voter's signature stamp or signing for the voter, the individual assisting the voter
8 must print and sign the individual's own name and residence address on the petition or
9 form and attest that the individual is signing on the voter's behalf. This method of signing
10 satisfies the requirements in this Title that voters personally sign candidate petitions.

11 **Sec. 7. 21-A MRSA §1002, sub-§1,** as amended by PL 2011, c. 389, §2, is
12 further amended to read:

13 **1. Meeting schedule.** The commission shall meet in Augusta for the purposes of
14 this chapter at least once per month in any year in which primary and general elections
15 are held. In the 28 days preceding an election, the commission shall meet in Augusta
16 within 2 business days of the filing of any complaint with the commission, unless the
17 complainant and respondent agree otherwise. Regardless of whether the complainant or
18 respondent agree, the commission may defer until after the election considering
19 complaints determined by the chair to involve allegations of minor violations of this
20 chapter ~~or chapter 14~~, such as disclaimer statements omitted from campaign signs or
21 transactions of less than \$100 omitted from campaign finance reports.

22 **Sec. 8. 21-A MRSA §1003, sub-§1,** as amended by PL 2013, c. 162, §1, is
23 further amended to read:

24 **1. Investigations.** The commission may undertake audits and investigations to
25 determine whether a person has violated this chapter, ~~chapter 14~~ or the rules of the
26 commission. For this purpose, the commission may subpoena witnesses and records
27 whether located within or without the State and take evidence under oath. A person or
28 entity that fails to obey the lawful subpoena of the commission or to testify before it
29 under oath must be punished by the Superior Court for contempt upon application by the
30 Attorney General on behalf of the commission. The Attorney General may apply on
31 behalf of the commission to the Superior Court or to a court of another state to enforce
32 compliance with a subpoena issued to a nonresident person. Service of any subpoena
33 issued by the commission may be accomplished by:

34 A. Delivering a duly executed copy of the notice to the person to be served or to a
35 partner or to any officer or agent authorized by appointment or by law to receive
36 service of process on behalf of that person;

37 B. Delivering a duly executed copy of the notice to the principal place of business in
38 this State of the person to be served; or

39 C. Mailing by registered or certified mail a duly executed copy of the notice,
40 addressed to the person to be served, to the person's principal place of business.

41 **Sec. 9. 21-A MRSA §1004-B,** as enacted by PL 2009, c. 302, §3, is amended to
42 read:

1 **§1004-B. Enforcement of penalties assessed by the commission**

2 The commission staff shall collect the full amount of any penalty ~~and the return of~~
3 ~~Maine Clean Election Act funds required by the commission to be returned~~ for a violation
4 of the statutes or rules administered by the commission and has all necessary powers to
5 carry out these duties. Failure to pay the full amount of any penalty assessed by the
6 commission ~~or return of Maine Clean Election Act funds~~ is a civil violation by the
7 candidate, treasurer, party committee, political action committee or other person. Thirty
8 days after issuing the notice of penalty ~~or order for the return of funds~~, the commission
9 shall report to the Attorney General the name of any person who has failed to pay the full
10 amount of any penalty ~~or to return Maine Clean Election Act funds~~ unless the
11 commission has provided an extended deadline for payment. The Attorney General shall
12 enforce the violation in a civil action to collect the full outstanding amount of the penalty
13 ~~or order for the return of Maine Clean Election Act funds~~. This action must be brought in
14 the Superior Court for Kennebec County or the District Court, 7th District, Division of
15 Southern Kennebec.

16 **Sec. 10. 21-A MRSA §1013-A, sub-§1, ¶A**, as amended by PL 2011, c. 389, §9
17 and affected by §62, is further amended to read:

18 A. No later than 10 days after becoming a candidate and before accepting
19 contributions, making expenditures or incurring obligations, a candidate for state or
20 county office or a candidate for municipal office who has not filed a written notice in
21 accordance with section 1011, subsection 4, paragraph A shall appoint a treasurer.
22 The candidate may serve as treasurer, ~~except that a participating candidate, as defined~~
23 ~~in section 1122, subsection 6, or a candidate certified in accordance with section 1125~~
24 ~~may not serve as treasurer, except that the candidate may serve as treasurer or deputy~~
25 ~~treasurer for up to 14 days after declaring an intention to qualify for campaign~~
26 ~~financing under chapter 14 until the candidate identifies another person to serve as~~
27 ~~treasurer~~. The candidate may have only one treasurer, who is responsible for the
28 filing of campaign finance reports under this chapter. A candidate shall register the
29 candidate's name and address and the name and address of the treasurer appointed
30 under this section no later than 10 days after the appointment of the treasurer. A
31 candidate may accept contributions personally or make or authorize expenditures
32 personally, as long as the candidate reports all contributions and expenditures to the
33 treasurer. The treasurer shall make a consolidated report of all income and
34 expenditures and provide this report to the commission.

35 (1) A candidate may appoint a deputy treasurer to act in the absence of the
36 treasurer. The deputy treasurer, when acting in the absence of the treasurer, has
37 the same powers and responsibilities as the treasurer. ~~A candidate certified in~~
38 ~~accordance with section 1125 may not serve as deputy treasurer~~. When a
39 treasurer dies or resigns, the deputy treasurer may not assume the position of
40 treasurer unless the candidate appoints the deputy treasurer to the position of
41 treasurer. The candidate shall report the name and address of the deputy treasurer
42 to the commission no later than 10 days after the deputy treasurer has been
43 appointed.

1 **Sec. 11. 21-A MRSA §1013-A, sub-§1, ¶C**, as amended by PL 2007, c. 443, Pt.
2 A, §7, is further amended to read:

3 C. No later than 10 days after becoming a candidate, as defined in section 1,
4 subsection 5, a candidate for the office of State House of Representatives or Senate
5 shall file in writing a statement declaring that the candidate agrees to accept voluntary
6 limits on political expenditures or that the candidate does not agree to accept
7 voluntary limits on political expenditures, as specified in section 1015, subsections 7
8 to 9. ~~A candidate who has filed a declaration of intent to become certified as a~~
9 ~~candidate under the Maine Clean Election Act is not required to file the written~~
10 ~~statement required by this paragraph.~~

11 The statement filed by a candidate who voluntarily agrees to limit spending must
12 state that the candidate knows the voluntary expenditure limitations as set out in
13 section 1015, subsection 8 and that the candidate is voluntarily agreeing to limit the
14 candidate's political expenditures and those made on behalf of the candidate by the
15 candidate's political committee or committees, the candidate's party and the
16 candidate's immediate family to the amount set by law. The statement must further
17 state that the candidate does not condone and will not solicit any independent
18 expenditures made on behalf of the candidate.

19 The statement filed by a candidate who does not agree to voluntarily limit political
20 expenditures must state that the candidate does not accept the voluntary expenditure
21 limits as set out in section 1015, subsection 8.

22 **Sec. 12. 21-A MRSA §1016-A, sub-§1**, as enacted by PL 2013, c. 334, §9, is
23 amended to read:

24 **1. Keeping required records.** The candidate or treasurer shall keep records of
25 contributions and expenditures as required by section 1016, ~~chapter 14~~ and the
26 commission's rules. If the candidate keeps the records, the candidate shall provide the
27 treasurer or deputy treasurer with access to the records for the purpose of filing complete
28 and accurate campaign finance reports. The candidate and treasurer are jointly
29 responsible for ensuring that the campaign keeps all records required by law.

30 **Sec. 13. 21-A MRSA §1016-A, sub-§3**, as enacted by PL 2013, c. 334, §9, is
31 amended to read:

32 **3. Liability for violations.** The commission may hold the candidate and treasurer
33 jointly and severally liable for any penalties assessed for violations of the financial
34 reporting or record-keeping requirements of this chapter, ~~chapter 14~~ and the commission's
35 rules. If the deputy treasurer files reports for the campaign, the commission may hold the
36 deputy treasurer jointly and severally liable for any penalties related to reports filed by
37 the deputy treasurer.

38 **Sec. 14. 21-A MRSA §1018-B, sub-§2**, as amended by PL 2013, c. 334, §14, is
39 further amended to read:

40 **2. Limitations.** After an election, candidates may receive donations for purposes of
41 a recount. The donations must be within the limitations of section 1015, except that no

1 limitation applies to donations from party committees and caucus campaign committees
2 and from attorneys, consultants and their firms that are donating their services without
3 reimbursement. ~~Candidates may not spend revenues received under chapter 14 for~~
4 ~~reeount expenditures.~~

5 **Sec. 15. 21-A MRSA §1054-A, sub-§4**, as enacted by PL 2013, c. 334, §23, is
6 amended to read:

7 **4. Financial liability.** The commission may hold the treasurer and principal officer
8 jointly and severally liable with the committee for any fines assessed against the
9 committee for violations of this chapter ~~and chapter 14~~. In addition, the commission may
10 assess all or part of a fine against any other agent of the committee who is directly
11 responsible for a violation, including individuals who have resigned or have been
12 removed involuntarily from the committee. In deciding whether to assess a penalty
13 against a treasurer, principal officer or any other individual, the commission may
14 consider, among other things, whether the individual had actual knowledge of the action
15 that constituted the violation or had authorized that action and whether the violation was
16 intentional or caused by an error by a vendor or someone outside the control of the
17 committee.

18 **Sec. 16. 21-A MRSA c. 14**, as amended, is repealed.

19 **Sec. 17. 36 MRSA §5286**, as enacted by IB 1995, c. 1, §18, is repealed.

20 **Sec. 18. Commission on Governmental Ethics and Election Practices to**
21 **transfer funds.** The Commission on Governmental Ethics and Election Practices shall
22 transfer all funds in the Maine Clean Election Fund to the Department of Education to be
23 used for the State's contribution toward the costs of education funding.

24 **Sec. 19. Effective date.** This Act takes effect January 1, 2016.

25 SUMMARY

26 This bill, which takes effect January 1, 2016, repeals the Maine Clean Election Act
27 and transfers the remaining balance in the Maine Clean Election Fund to the Department
28 of Education to be used for the State's contribution toward the costs of education funding.
29 This bill also corrects the numerous cross-references to the Maine Clean Election Act in
30 the Maine Revised Statutes.