

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: May 7, 2021
To: Veterans and Legal Affairs Committee
From: Janet Stocco, Legislative Analyst

LD 1442 **An Act Regarding Publicly Financed Legislative Candidates in Competitive Primaries** (*Rep. Grohoski*)

SUMMARY

Under current law, [21-A M.R.S. §1125\(8-C\) and \(8-D\)](#), legislative candidates certified under the Maine Clean Election Act (MECA) receive a single distribution of revenue from the Maine Clean Election Fund during a primary election and a single distribution of fund revenue if the candidate is involved in an uncontested general election. If the candidate is part of a **contested general election**, however, the candidate may choose to collect additional qualifying contributions to qualify to receive up to 8 supplemental distributions of fund revenue.

LD 1442 would amend these provisions of the MCEA to authorize an MCEA legislative candidate who faces a **contested primary election** the option to choose to collect additional qualifying contributions to qualify to receive up to 4 supplemental distributions of fund revenue. If the candidate later faces a contested general election, however, the total supplemental distributions the candidate may receive for the contested general election would be decreased by the number of supplemental distributions the candidate opted to receive for the contested primary election—*i.e.*, a single MCEA certified legislative candidate may not receive more than 8 supplemental distributions during the entire election cycle under the bill.

Senate candidates**House candidates**

	Current law*	LD 1442	Current law*	LD 1442
Uncontested primary	\$2,000	Same	\$500	Same
Contested primary	\$10,000	<i>Initial:</i> \$10,000	\$2,500	<i>Initial:</i> \$2,500
		<i>Supplemental:</i> up to 4 payments of \$4,285 for every batch of 30 additional QCs		<i>Supplemental:</i> up to 4 payments of \$1,070 for every batch of 10 additional QCs
Uncontested general	\$6,000	Same	\$1,500	Same
Contested general	<i>Initial:</i> \$20,000	Same	<i>Initial:</i> \$5,000	Same
	<i>Supplemental:</i> up to 8 payments of \$5,300 for every batch of 45 additional QCs	Same — except may not receive more than 8 total supplemental payments	<i>Supplemental:</i> up to 8 payments of \$1,250 for every 15 additional QCs	Same — except may not receive more than 8 total supplemental payments

* The table includes the statutory amounts, which are subject to biennial adjustment by the Ethics Commission under [§1125\(8-F\)](#). The adjusted amounts for the upcoming 2022 election are attached.

ISSUES RAISED AND AMENDMENTS PROPOSED IN TESTIMONY

1. **Sponsor’s proposed amendment.** The sponsor submitted a [proposed amendment](#) that would:
 - Correct mathematical errors regarding the number of additional qualifying contributions candidates must collect to receive supplemental distributions for a contested primary;
 - Clarify that a legislative or gubernatorial certified candidate who collects additional qualifying contributions for a primary election may elect to use those additional qualifying contributions to obtain a supplemental distribution either during a contested primary or contested general election.

2. **Adjustments to statutory distribution amounts.** The distribution amounts set forth in the MCEA were enacted in 2015 and are subject to biennial adjustment by the Ethics Commission, based in part on the Consumer Price Index. See [§1125\(8-F\)](#). The attached table, prepared by the Ethics Commission, lists both the 2015 statutory distribution amounts and the adjusted distribution amounts for the 2022 election. The sponsor expressed concern that, by including some but not all of the 2015 statutory MCEA distribution amounts in the bill, it will not be clear whether the Legislature intends to reset those distributions to the 2015 amounts while keeping all other distribution amounts at the adjusted (and higher) level for the 2022 election. She therefore proposed amending the bill to replace **all** of the 2015 statutory distribution amounts with the adjusted 2022 distribution amounts, thus “resetting the CPI adjustment clock” moving forward. The yellow-highlighted numbers in the attached table show how the bill’s proposed supplemental distribution amounts would be changed if they are adjusted upward by the same percent that the current statutory amounts have been adjusted.

3. **Timing of supplemental fund distributions.** The Ethics Commission expressed concern with the timing of the contested primary supplemental distributions proposed by the bill: Commission staff would be required to review additional qualifying contributions submitted by legislative candidates in contested primary elections during April to May of the election year. At that same time, Commission staff are already busy reviewing all legislative candidates’ requests for MCEA certification, which are due on April 20th. After the public hearing, the Executive Director Jonathan Wayne of the Ethics Commission provided the following additional input via email:

During the last two weeks of April and early May, the Commission staff is very busy reviewing qualifying contributions from legislative candidates to determine if they have qualified for MCEA funding. If LD 1442 were enacted, it is hard to estimate how many primary election candidates in 2022 would submit additional qualifying contributions to qualify for supplemental payments for the primary election. We estimate that LD 1442 could result in the Commission staff reviewing additional qualifying contributions from as many as 33 House candidates and 13 Senate candidates. The Commission staff is concerned that reviewing several hundred additional qualifying contributions from these candidates will make this April-May period even more challenging, but we want to cooperate with legislative improvements to the MCEA program. If the VLA Committee would like to amend LD 1442 to address this issue, we suggest unallocated language that would direct the Commission to invite comment from the public, political parties, legislative caucuses, and anyone else the committee thinks appropriate and to develop written procedures for prioritizing requests for certification and supplemental payments during the three weeks after the end of the qualifying period for legislative candidates.

FISCAL IMPACT

Not yet determined.

Attachment: MCEA distribution amounts—existing and proposed in LD 144—adjusted for 2022 election

Provided by Jonathan Wayne, Executive Director of the Ethics Commission

	MCEA Payment Amounts adopted in 2015 Initiative (currently in 21-A M.R.S. §§ 1125(8-B)-(8-D))	Adjusted for 2022
House		
Primary - Uncontested & Unenrolled	\$500	\$550
Primary - Contested	\$2,500	\$2,725
Primary - Proposed Supplemental		\$1,169
General - Uncontested	\$1,500	\$1,650
General - Contested	\$5,000	\$5,475
General - Supplemental	\$1,250	\$1,375
Senate		
Primary - Uncontested & Unenrolled	\$2,000	\$2,175
Primary - Contested	\$10,000	\$10,925
Primary - Proposed Supplemental		\$4,683
General - Uncontested	\$6,000	\$6,550
General - Contested	\$20,000	\$21,850
General - Supplemental	\$5,000	\$5,475
Governor		
Primary - Uncontested & Unenrolled	\$200,000	\$218,550
Primary - Contested	\$400,000	\$437,125
Primary - Supplemental	\$150,000	\$163,925
General - Uncontested	\$600,000	\$655,675
General - Contested	\$600,000	\$655,675
General - Supplemental	\$175,000	\$191,250