

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act To Reform and Simplify the Clean Election Process

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

**Sec. 1. 21-A MRSA §1014, sub-§2-A,** as enacted by PL 2005, c. 301, §11, is amended to read:

**2-A. Communication.** If a person makes an expenditure for a communication that names or depicts a clearly identified candidate and that is disseminated during the 2142 days before an election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate.

**Sec. 2. 21-A MRSA §1019-B, sub-§1, ¶B,** as enacted by PL 2003, c. 448, §3, is amended to read:

B. Is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5 to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 2142 days, including election day, before a primary election; the 2142 days, including election day, before a general election; or during a special election until and on election day.

**Sec. 3. 21-A MRSA §1122, sub-§7,** as enacted by IB 1995, c. 1, §17, is amended to read:

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

A. ~~Of between \$5 in the form of a check or a money order payable to the fund and \$40 in support of a candidate;~~

B. Made by a registered voter within the electoral division for the office at the candidate is seeking;

C. Made during the designated qualifying period and obtained with the knowledge and approval of the candidate; and

D. That is acknowledged ~~by a written receipt on a form prescribed and prepared by the commission that identifies~~contains the name and, address and signature of the donor ~~on forms provided by the commission and a statement that the donation came from the donor's own funds; and~~

E. Made by a registered voter who has made no other contribution to a candidate for the same office.

**Sec. 4. 21-A MRSA §1122, sub-§8,** as amended by PL 2001, c. 465, §3, is further amended to read:

**8. Qualifying period.** "Qualifying period" means the following period of time from:

A. ~~For a gubernatorial participating candidate, the qualifying period begins November 1st immediately preceding the election year and ends at 5:00 p.m. on April 15th of the election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.~~

B. ~~For State Senate or State House of Representatives participating candidates, the qualifying period begins January 1st of the election year and ends at 5:00 p.m. on April 15th of that election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.~~

**Sec. 5. 21-A MRSA §1122, sub-§9,** as amended by PL 2005, c. 301, §28, is repealed.

**Sec. 6. 21-A MRSA §1125, sub-§2,** as enacted by IB 1995, c. 1, §17, is repealed.

**Sec. 7. 21-A MRSA §1125, sub-§2-A** is enacted to read:

**2-A. Restrictions on contributions for participating candidates.** Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification as a Maine Clean Election Act candidate, a participating candidate may not accept contributions other than qualifying contributions. Prior to certification, a candidate may obligate an amount greater than the qualifying contributions collected if the value of the goods and services received from a vendor does not exceed the amount paid to the vendor. No revenue from the fund may be used, promised, pledged or applied toward the collection of qualifying contributions. A candidate may not collect or spend contributions after certification as a Maine Clean Election Act candidate except as authorized by the commission under subsection 13. All contributions must be reported according to procedures developed by the commission.

**Sec. 8. 21-A MRSA §1125, sub-§3,** as amended by PL 2001, c. 465, §4, is further amended to read:

**3. Qualifying contributions.** Participating candidates must obtain qualifying contributions during the qualifying period as follows:

A. ~~For a gubernatorial candidate, at least 2,500 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate;~~

B. ~~For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or~~

C. ~~For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.~~

Minimum number of  
contributors

Total sum required to  
qualify

|   |              |                 |
|---|--------------|-----------------|
| <u>For State House of Representatives</u> | <u>50</u>    | <u>\$500</u>    |
| <u>For State Senate</u>                   | <u>150</u>   | <u>\$1,500</u>  |
| <u>For Governor</u>                       | <u>2,500</u> | <u>\$25,000</u> |

Qualifying contributions may be in the form of cash or money orders made payable to the candidate and may be expended by a participating candidate for campaign-related purposes during the period that the candidate is seeking certification as a Maine Clean Election Act candidate.

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order in the amount of \$5, which is a qualifying contribution, as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules.

**Sec. 9. 21-A MRSA §1125, sub-§4,** as enacted by IB 1995, c. 1, §17, is amended to read:

**4. Filing with commission.** A participating candidate must submit donor acknowledgments for all qualifying contributions as defined in section 1122, subsection 7 to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11.

**Sec. 10. 21-A MRSA §1125, sub-§5,** as amended by PL 2005, c. 301, §30, is further amended to read:

**5. Certification of Maine Clean Election Act candidates.** Upon receipt of a final submittal of acknowledgements for all qualifying contributions by a participating candidate, the commission shall determine whether or not the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act;
- B. ~~Submitted~~Collected the appropriate number and amount of valid qualifying contributions;
- C. Qualified as a candidate by petition or other means;
- D. ~~Not accepted contributions,~~Accepted no contributions except for ~~seed money~~qualifying contributions; and otherwise complied with ~~seed money~~ restrictions under this chapter;
- D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year; and
- E. Otherwise met the requirements for participation in this Act.

The commission shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible and no later than 3 business days after final submittal of qualifying contributions.

~~Upon certification, a candidate must transfer to the fund any unspent seed money contributions. A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.~~

**Sec. 11. 21-A MRSA §1125, sub-§6**, as amended by PL 2005, c. 542, §3, is further amended to read:

**6. Restrictions on contributions and expenditures for certified candidates.** After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the unspent qualifying contributions and revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on bank accounts. All revenues distributed to a certified candidate from the fund and unspent qualifying contributions must be used for campaign-related purposes as defined by the commission. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. ~~The commission shall publish guidelines outlining permissible campaign-related expenditures.~~

**Sec. 12. 21-A MRSA §1125, sub-§8**, as amended by PL 2003, c. 688, Pt. A, §21, is further amended to read:

**8. Amount of fund distribution.** ~~By July 1, 1999 of the effective date of this Act, and at~~ At least every 4 years after that date, the commission shall determine the amount of funds to be distributed to participating candidates based on the type of election and office as follows described in this section. Each initial distribution must be reduced by an amount equal to 50% of the amount of qualifying contributions collected by a participating candidate.

A. For contested legislative primary elections, the amount of revenues to be distributed is the average amount of campaign expenditures made by each candidate during all contested primary election races for the immediately preceding 2 primary elections, as reported in the initial filing period subsequent to the primary election, for the respective offices of State Senate and State House of Representatives.

B. For uncontested legislative primary elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all uncontested primary election races for the immediately preceding 2 primary elections, as reported in the initial filing period subsequent to the primary election, for the respective offices of State Senate and State House of Representatives.

C. For contested legislative general elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all contested general election races for the immediately preceding 2 general elections, as reported in the initial filing period subsequent to the general election, for the respective offices of State Senate and State House of Representatives.

D. For uncontested legislative general elections, the amount of revenues to be distributed from the fund is 40% of the amount distributed to a participating candidate in a contested general election.

E. For contested gubernatorial primary elections, the amount of revenues distributed is \$200,000 per candidate in the primary election.

F. For gubernatorial general elections, the amount of revenues distributed is \$400,000 per candidate in the general election.

If the immediately preceding election cycles do not contain sufficient electoral data, the commission shall use information from the most recent applicable elections.

**Sec. 13. 21-A MRSA §1125, sub-§9**, as repealed and replaced by PL 2003, c. 688, Pt. A, §22, is amended to read:

**9. Matching funds.** When any campaign, finance or election report shows that the sum of a candidate's expenditures or obligations, or funds raised or borrowed, whichever is greater, alone or in conjunction with independent expenditures reported under section 1019-B, exceeds the distribution amount under subsection 8, the commission shall issue immediately to any opposing Maine Clean Election Act candidate or privately supported candidate who meets the requirements of subsection 9-A an additional amount equivalent to the reported excess. Matching funds are limited to 2 times the amount originally distributed under subsection 8, paragraph A, C, E or F, whichever is applicable.

**Sec. 14. 21-A MRSA §1125, sub-§9-A** is enacted to read:

**9-A. Private funding option.** Prior to April 15th of an election year, a candidate whose campaign is supported by private contributions may request distribution of matching funds as provided in subsection 9 for certified Maine Clean Election Act candidates after completing an application on forms provided by the commission. The commission shall issue matching funds to the candidate if that candidate agrees to limit contributions received and expenditures made in support of that candidate's election to an amount not greater than the initial distribution amount as provided in subsection 8 to a certified Maine Clean Election Act candidate seeking election to the same office. If the candidate meets the requirements described in this section, that candidate is entitled to matching funds in the manner prescribed in subsection 9. If the commission determines that the candidate has received contributions or made expenditures in violation of this section, that candidate is subject to the penalties prescribed in section 1127.

**Sec. 15. 21-A MRSA §1125, sub-§10**, as amended by PL 2001, c. 465, §6, is further amended to read:

**10. Candidate not enrolled in a party.** ~~An unenrolled candidate certified by April 15th preceding the primary election is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8. For an unenrolled candidate not certified by April 15th at 5:00 p.m. the deadline for filing on the basis of qualifying contributions is on acknowledgements duly filed by 5:00 p.m. on June 2nd preceding the general election. An unenrolled candidate certified after April 15th at 5:00 p.m. is eligible for revenues from the fund in the same amounts as equal to 40% of the amount distributed to a general election candidate, as specified in subsections 7 and 8. An unenrolled candidate who qualifies by timely submission of acknowledgements recording at least the minimum amount of contributions and, in addition, a number of contributors that equals or exceeds 160% of the minimum number required by subsection 3 is eligible for revenues from the fund equal to the amount distributed to a general election candidate.~~

**Sec. 16. 21-A MRSA §1125, sub-§13,** as enacted by IB 1995, c. 1, §17, is amended to read:

**13. Distributions not to exceed amount in fund.** The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may permit certified candidates to accept and spend contributions, ~~reduced by any seed money contributions;~~ aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission.

**Sec. 17. 21-A MRSA §1125, sub-§14,** as amended by PL 2005, c. 301, §32, is further amended to read:

**14. Appeals.** A participating candidate who has accepted contributions or made expenditures that do not comply with the restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions. A candidate who has been denied certification as a Maine Clean Election Act candidate, the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate or other interested persons may challenge a certification decision by the commission as follows.

A. A challenger may appeal to the full commission within 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal.

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the commission decision was improper. The commission must rule on the appeal within 3 days after the completion of the hearing.

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court according to the procedure set forth in section 356, subsection 2, paragraphs D and E.

D. A candidate whose certification by the commission as a Maine Clean Election Act candidate is revoked on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court find that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any.

## SUMMARY

This bill amends the Maine Clean Election Act by combining seed money and qualifying contributions into one qualifying system. Rather than seed money, a candidate would be able to spend qualifying contributions prior to certification as a Maine Clean Election Act candidate. Qualifying contributions, which may be made by either cash or money order under this bill, are defined as any amount between \$5 and \$40 payable to the candidate or the campaign and must come from the candidate's district. To be certified as a Maine Clean Election Act candidate, the candidate must raise qualifying contributions in numbers and amounts as follows:

|               | Minimum Number of<br>contributors | Total sum required to<br>qualify |
|---------------|-----------------------------------|----------------------------------|
| For House:    | 50                                | \$500                            |
| For Senate:   | 150                               | \$1,500                          |
| For Governor: | 2,500                             | \$25,000                         |

The number of required contributors remains the same as in present law, but the minimum amount of money required is doubled from \$5 per check to what would be an average of \$10 if only the minimum number were obtained. Each \$5 contribution still counts and contributions up to \$40 are acceptable. Instead of turning checks in to the commission, this bill provides that candidates submit an acknowledgment receipt signed by each contributor as evidence of the payment and support.

Under this bill, initial distributions from the Maine Clean Election Fund to a candidate certified as a Maine Clean Election Act candidate are reduced by one-half of the qualifying contributions collected. Under this bill, the qualifying period would begin on November 1st of the year prior to an election year for candidates for all offices. Current law provides that November 1st is the beginning of the qualifying period for just gubernatorial candidates. The bill repeals a provision that presently allows an unenrolled candidate to receive a distribution equal to a primary or general election campaign distributions in uncontested races if the candidate qualifies before April 15th.

For unenrolled candidates, distributions are set at 40% of those available to a party candidate unless the unenrolled candidate obtains a number of contributors equal to 160% of those required for a party candidate. The total dollar sum of contributions required by current law remains the same for party and for unenrolled candidates under this bill.

This bill prohibits a registered voter from making a qualifying contribution to more than one candidate for the same office. This bill removes a provision that permits a candidate to pay the fee for money orders to be used as qualifying contributions since it provides for the authorization of cash

transactions for qualifying contributions. The bill provides that no revenue from the Maine Clean Election Fund may be pledged or applied to the collection of qualifying contributions.

This bill expands from 21 days to 42 days the period before an election in which a paid communication is deemed to be an independent expenditure if it clearly identifies a candidate on the ballot.

The bill also adds a private funding option for candidates. Before April 15th of an election year, a candidate whose campaign is supported by private contributions may request that the Commission on Governmental Ethics and Election Practices provide matching fund protections of the Maine Clean Election Act if the candidate agrees to limit and does, in fact, limit campaign contributions and expenditures to the amount that would be authorized for distribution to the candidate if the candidate were qualified as a Maine Clean Election Act candidate. A candidate making such an election is entitled to public matching funds in the same manner as a qualified Maine Clean Election Act candidate.