An Act To Increase Transparency in the Direct Initiative Process

(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.

Presented by Representative LUCHINI of Ellsworth.
Cosponsored by Representative: FARRIN of Norridgewock.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 4 MRSA §954-A, as amended by PL 1999, c. 425, §1, is further amended to read:

§954-A. Conflict of interest

A notary public may not perform any notarial act for any person if that person is the notary public's spouse, parent, sibling, child, spouse's parent, spouse's sibling, spouse's child or child's spouse, except that a notary public may solemnize the marriage of the notary public's parent, sibling, child, spouse's parent, spouse's sibling or spouse's child. It is a conflict of interest for a notary public to administer an oath or affirmation to a circulator of a petition for a direct initiative or people's veto referendum under Title 21-A, section 902 if the notary public also provides services that are not notarial acts to initiate or promote that direct initiative or people's veto referendum. This section does not affect or apply to notarial acts performed before August 4, 1988.

Sec. 2. 21-A MRSA §901-A, sub-§2, as amended by PL 2009, c. 611, §1, is further amended to read:

2. Required statements; placement of information. On each page of a petition that contains space intended for voter signatures, the Secretary of State shall include a space at the top right or left corner of each such page to be submitted to the voters, which must be filled in with the name of the circulator collecting signatures on that petition and a unique identifying number, and include the fiscal impact of the initiative as described in Title 1, section 353 directly below the following statement at the top of the petition in a type size of no less than 16 points:

"Freedom of Citizen Information: Before a registered voter signs any initiative petition, signature gatherers must offer the voter the opportunity to read the proposed initiative summary and fiscal impact statement prepared by the Secretary of State."

Sec. 3. 21-A MRSA §901-A, sub-§3 is enacted to read:

3. Circulator information; placement on petition. At the top right or left corner of each page of a petition that contains space intended for voter signatures, the Secretary of State shall include a space, which must be filled in with the name of the circulator collecting signatures on that petition and a unique identifying number for the circulator. For petitions that will be circulated by a circulator who is being compensated or paid to circulate the petition, the Secretary of State shall include the following statement, in a bold type in a type size of no less than 16 points, below the space that contains the circulator's name:

"This circulator is being paid to solicit signatures for this direct initiative."

A circulator who is compensated or paid to circulate petitions may not collect signatures on a petition that does not include the statement described in this subsection.

Sec. 4. 21-A MRSA §903-A, first ¶, as amended by PL 2015, c. 99, §1, is further amended to read:
Petitions issued under this chapter may be circulated by any Maine resident who is a registered voter acting as a circulator of a petition. A circulator of a petition solicits signatures for the petition by presenting the petition to the voter, asking the voter to sign the petition and personally witnessing the voter affixing the voter's signature to the petition. The circulator of the petition must comply with the provisions of section 901-A, subsection 3 and section 902.

Sec. 5.  21-A MRSA §903-D, as enacted by PL 2017, c. 277, §5, is repealed.

Sec. 6.  21-A MRSA §903-E is enacted to read:

§903-E.  Persons not authorized to administer an oath or affirmation to a petition circulator

1. Certain notaries public and others. A notary public or other person authorized by law to administer oaths or affirmations generally is not authorized to administer an oath or affirmation to the circulator of a petition under section 902 if the notary public or other generally authorized person is:

A. Providing any other services, regardless of compensation, to initiate the direct initiative or people's veto referendum for which the petition is being circulated. For the purposes of this paragraph, "initiate" has the same meaning as section 1052, subsection 4-B; or

B. Providing services, regardless of compensation, to promote the direct initiative or people's veto referendum for which the petition is being circulated.

Sec. 7.  21-A MRSA §1060-A is enacted to read:

§1060-A. Campaign for direct initiative or people's veto; reporting by major contributors

This section governs the reporting of contributions aggregating in excess of $100,000 for the purpose of initiating or influencing a campaign for a people's veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17 or a direct initiative of legislation under the Constitution of Maine, Article IV, Part Third, Section 18.

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

A. "Contribution" has the same meaning as set out in section 1052, subsection 3 and also includes but is not limited to:

(1) Funds or anything of value that the contributor specified were given in connection with a campaign for a people's veto referendum or direct initiative campaign;

(2) Funds or anything of value provided in response to a solicitation that would lead the contributor to believe that the contribution would be used specifically for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign; and
(3) Funds or anything of value that can be reasonably determined to have been provided by the contributor for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign when viewed in the context of the contribution and the recipient committee's activities during the campaign.

B. "Major contributor" means a person, other than an individual, that makes one or more contributions aggregating in excess of $100,000 within a calendar year to a ballot question committee or political action committee for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign.

2. Notice to major contributor. Within 5 days of receiving more than $100,000 in the aggregate within a calendar year from a major contributor, the recipient committee shall provide written notice to the major contributor of the reporting requirement under this section and shall submit a copy of the notice to the commission. If the $100,000 aggregate amount is exceeded as a result of a contribution received during the last 13 days before an election, the recipient committee shall, within 24 hours of receiving the contribution, provide written notice of the reporting requirement to the major contributor and submit a copy of the notice to the commission. The commission shall prepare a sample written notice for this purpose.

3. Required reports. A major contributor shall file a report containing the information required in subsection 4 on or before the filing deadline under section 1059, subsection 2 for the recipient committee's October quarterly or 11-day preelection campaign finance report, whichever occurs first after the major contributor receives notice of the reporting requirement. If a major contributor has received a notice from a recipient committee or the commission during the last 13 days before an election as required under subsection 2, the major contributor shall file a report within 2 business days of receiving notice from the recipient committee or commission. The commission shall prescribe and prepare forms for these reports and may require major contributors to file reports electronically.

4. Content. In the reports required under subsection 3, a major contributor shall provide:

A. The name of and relevant contact information for the major contributor and the name of a responsible officer of the major contributor;

B. The form of organization and purpose of the major contributor;

C. The amount and date of each contribution from the major contributor to the recipient committee during the calendar year;

D. A certification that the major contributor has not received contributions, in whole or in part, for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign in this State or, if the major contributor has received such contributions, the dates, sources and amounts of any such contributions;

E. Information concerning the 5 largest sources of funds received by the major contributor during the 12 months prior to the filing of the report, including but not limited to identifying the sources and amounts of the funds and the dates the funds were received; and
F. A statement indicating whether the major contributor is exempt from taxation under the United States Internal Revenue Code of 1986 and a list of any governmental jurisdictions within the United States in which the major contributor has filed campaign finance reports during the previous 12 months.

The commission may require by rule additional information to be reported consistent with this subsection to facilitate disclosure to citizens of this State of financial activity conducted for the purpose of influencing elections in this State. The commission may by rule permit major contributors to exclude the sources of funds that are restricted to purposes unrelated to a people’s veto referendum or a direct initiative campaign.

5. Noncompliance. The commission may assess a civil penalty against a major contributor that does not file a timely report required under this section. The preliminary penalty is 10% of the total contributions required to be reported, up to a maximum of $50,000. Within 14 calendar days of receiving notice of the preliminary penalty from the commission, the major contributor may request that the penalty be waived in full or in part. In considering a request for a waiver, the commission shall consider, among other things, any lack of notice to the major contributor of the reporting requirement, the number of days that the report was filed late and the amount of the contributions required to be reported. A major contributor requesting a determination may either appear in person or designate a representative to appear on the major contributor’s behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subsection must be sent to the major contributor. If a determination is not requested, the preliminary penalty calculated by the commission is final. The commission shall mail final notice of the penalty to the major contributor. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. The commission may assess a civil penalty in the same amount against a recipient committee that has not provided written notice of the reporting requirements to the major contributor as required by subsection 2, using the same procedures as set out in this subsection for penalties against the major contributor.

SUMMARY

This bill changes the requirements regarding the statements the Secretary of State must include on petitions used for the collection of signatures for a direct initiative. If the circulator of a petition is being paid to circulate the petition, that petition must include, on each page intended for voter signatures, a statement under the circulator’s name that the circulator is being paid. The bill also states that a notary public or other person generally authorized to administer oaths or affirmations is not considered authorized to administer oaths or affirmations to a petition circulator if the notary public or person is also providing services to initiate that petition or promote the measure for which the petition is being circulated. It also provides that a notary public has a conflict of interest if the notary public provides services, other than notarial acts, to a campaign for a direct initiative or people’s veto referendum and also administers an oath to a circulator who is collecting signatures for that same direct initiative or people’s veto referendum. The bill
requires financial reports from major contributors to a direct initiative or people's veto referendum campaign. A major contributor is an entity, other than an individual, that makes contributions aggregating more than $100,000 in a calendar year to a ballot committee or political action committee for the purpose of initiating or influencing a direct initiative or people's veto referendum. The report must disclose the name and purpose of the organization making the contribution, the amount and date of each contribution, the 5 largest sources of income in the year prior to filing the report, whether the organization has received contributions for the purposes of influencing a direct initiative or people's veto referendum, if the organization is a tax-exempt organization and if the organization has filed campaign finance reports in other jurisdictions in the past 12 months.