

## **§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. [PL 2017, c. 418, §4 (NEW).]

**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. [PL 2017, c. 418, §4 (NEW).]

B. "Major contributor" means a person, other than an individual or a committee, that makes one or more contributions aggregating in excess of \$100,000 to a ballot question committee or political action committee for the purpose of initiating or influencing any one people's veto referendum campaign or any one direct initiative campaign. [PL 2021, c. 530, §2 (AMD).]

[PL 2021, c. 530, §2 (AMD).]

**2. Notice to major contributor.** Within 5 days of receiving more than \$100,000 in the aggregate 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. [PL 2017, c. 418, §4 (NEW).]

**3. Required reports.** A major contributor shall file a report containing the information required in subsection 4 on or before the next regularly scheduled filing deadline under section 1059, subsection 2 occurring 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.

[PL 2017, c. 418, §4 (NEW).]

**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; [PL 2017, c. 418, §4 (NEW).]
- B. The form of organization and purpose of the major contributor; [PL 2017, c. 418, §4 (NEW).]

C. The amount and date of each contribution from the major contributor to the recipient committee; [PL 2017, c. 418, §4 (NEW).]

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; [PL 2017, c. 418, §4 (NEW).]

E. The names of the 5 largest sources of funds received by the major contributor during the period beginning 6 months prior to the first contribution made to the recipient committee and ending on the date of the filing of the report. This paragraph does not apply to funds received by the major contributor:

(1) That are restricted to purposes that are unrelated to a people's veto referendum or direct initiative campaign in the State;

(2) In the ordinary course of the major contributor's regular trade or business or as investment income; or

(3) If the source of the funds provided no more than \$5,000 to the major contributor during the relevant period of time; and [PL 2021, c. 530, §3 (RPR).]

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. [PL 2017, c. 418, §4 (NEW).]

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.

[PL 2021, c. 530, §3 (AMD).]

**5. Noncompliance.** The commission may assess a civil penalty against a person that does not comply with the requirements of this section. The preliminary penalty is 10% of the total contributions required to be reported or \$50,000, whichever is less, for:

A. A recipient committee that fails to provide timely notice to a major contributor under subsection 2; [PL 2021, c. 530, §4 (NEW).]

B. A recipient committee that fails to provide a copy of the notice to the commission under subsection 2. If the commission assesses a penalty under paragraph A, the commission may not also assess a penalty under this paragraph; and [PL 2021, c. 530, §4 (NEW).]

C. A major contributor that fails to file a timely report required under this section or that files a report that does not substantially conform to the disclosure requirements of this section or rules adopted under this section. [PL 2021, c. 530, §4 (NEW).]

[PL 2021, c. 530, §4 (RPR).]

**6. Waiver request; final penalty.** Not later than the 14th calendar day after the date the person receives notice of the preliminary penalty from the commission under subsection 5, the person may request a waiver of the penalty in full or in part. In considering a request for a waiver under this subsection, the commission shall consider:

A. For violations under subsection 5, paragraphs A and B:

(1) Whether, as a result of the late notice, the due date for a report required by this subchapter is later than if a timely notice had been received;

(2) Whether the recipient committee made a bona fide effort to provide notice to the major contributors;

- (3) The amount of the contributions required to be reported; and
  - (4) Other relevant factors; and [PL 2021, c. 530, §5 (NEW).]
- B. For violations under subsection 5, paragraph C:
- (1) The failure of the recipient committee to provide notice of the reporting requirement to the major contributor;
  - (2) The number of days the report is late;
  - (3) The amount of the contributions required to be reported; and
  - (4) Other relevant factors. [PL 2021, c. 530, §5 (NEW).]

A person requesting a determination on a waiver may either appear in person or designate a representative to appear on the person's behalf or may submit a sworn statement explaining the mitigating circumstances for consideration by the commission. After a commission meeting, the commission shall mail notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subsection to the person against whom the commission is assessing the penalty. If the person against whom the commission is assessing the penalty does not request a waiver, the preliminary penalty calculated by the commission is final. The commission shall mail final notice of the penalty to the person against whom the commission is assessing the penalty. A final determination by the commission on a waiver 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.

[PL 2021, c. 530, §5 (NEW).]

#### SECTION HISTORY

PL 2017, c. 418, §4 (NEW). PL 2021, c. 530, §§2-5 (AMD).

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