

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2183

H. P. 2004 House of Representatives, February 5, 1976
Referred to the Committee on Election Laws. Sent up for concurrence and
ordered printed.

EDWIN H. PERT, Clerk

Filed under Joint Rule 3 pursuant to H. P. 1646.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT Relating to Campaign Reports and Finances.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the laws on election campaign reports and finances, especially with regard to candidates for the Maine House of Representatives, need to be clarified; and

Whereas, this clarification must be completed as soon as possible in order that political campaigns in 1976 may be conducted without a change of the laws in the middle of the campaign; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

21 MRSA c. 35, as last repealed and replaced by PL 1975, c. 621, § 9, is repealed and the following enacted in place thereof:

CHAPTER 35

CAMPAIGN REPORTS AND FINANCES

§ 1391. Purpose; legislative finding of fact; applicability

1. Purpose; findings. The Legislature finds and declares that it is in the best interests of the people of the State of Maine to place certain limits on expenditures by or on behalf of candidates for political office. The Legisla-

ture, while recognizing the right of the citizens of the State of Maine to support the political candidates of their choice and while recognizing the right of those candidates to present their views to the citizens, also is cognizant that abuses in the election process can occur through the expenditure of disproportionate sums of money to influence the voters and further recognizes that an attempt should be made to correct these abuses in order that citizens may have a more balanced view of the positions and platforms of political candidates. The Legislature further finds that the expenditure of large sums of money by any one individual or organization results in undue influence over the electoral process. The Legislature desires to minimize the effects of these problems. Therefore, the Legislature further finds it necessary to impose certain expenditure limits which it feels, after careful study, are properly limited to the end sought to be achieved, will not result in the abridgement of any constitutional freedom of the citizens or candidates and will not interfere with the right of those persons to participate fully in the election process.

2. **Applicability.** This chapter applies to candidates for all state and county offices and to campaigns for their nomination and election.

§ 1392. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. **Commission.** "Commission" means the Commission on Governmental Ethics and Campaign Practices established pursuant to Title 1, section 1002.

2. **Contribution.** "Contribution" includes:

A. A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to political office;

B. A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make a contribution for such purposes;

C. Funds received by a candidate or a political committee which are transferred to such candidate or committee from another political committee or other source; or

D. The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons which are rendered to such candidate or political committee without charge for any such purpose; but does not include:

(1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

(2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

(3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

(4) Any reimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

(5) The payment by a state, district, county or local committee of a political party of the costs of preparation, display or mailing or other distribution incurred by such committee with respect to a printed slate card, sample ballot or other printed listing of 3 or more candidates for any public office for which an election is held, except that this paragraph shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising; or

(6) Any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization; to the extent that the cumulative value of activities by any individual on behalf of any candidate under each of paragraphs 2, 3 and 4 does not exceed \$50 with respect to any election.

3. Expenditures. "Expenditures" includes:

A. A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office;

B. A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;

C. The transfer of funds by a candidate or a political committee to another candidate or political committee; but does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless such facilities are owned or controlled by any political party, political committee or candidate;

(2) Nonpartisan activity designed to encourage individuals to register to vote or to vote;

(3) Any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to political office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential

premises for candidate-related activities, if the cumulative value of such activities by such individual on behalf of any candidate do not exceed \$50 with respect to any election;

(5) Any unreimbursed payment for travel expenses made by an individual who, on his own behalf, volunteers his personal services to a candidate, if the cumulative amount for such individual incurred with respect to such candidate does not exceed \$50 with respect to any election;

(6) Any communication by any person which is not made for the purpose of influencing the nomination for election, or election, of any person to political office;

(7) The payment by a state, district, county or local committee of a political party of the costs of preparation, display or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held, except that this paragraph shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising;

(8) Any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization; or

(9) The use or distribution of any written political material prepared for a previous election, whether a primary election or an election in a previous year but which was not distributed or used in that election.

4. Political office. "Political office" means all political offices other than the United States Senator and United States Representative.

§ 1393. Treasurers; political committees

Each political committee shall appoint a treasurer before accepting any contributions or making or authorizing any expenditures. A political committee or a candidate who appoints a treasurer shall advise the commission of the name and address of such treasurer within 7 days after such appointment, the name or title of the committee or candidate making the appointment and the treasurer's term of office. In addition to the registration of its treasurer, a political committee shall submit to the commission the names and addresses of all of its officers, whether or not that committee accepts any contributions or makes or authorizes any expenditures.

§ 1394. Collection and disbursement of money

1. Collection. Only a treasurer or a candidate may accept money to promote or defeat a candidate. This does not prohibit the receipt of contributions by a solicitor to be transferred to a treasurer or the acceptance of money by a person who furnishes goods or services.

2. Disbursement. Only a treasurer or a candidate may spend money to promote or defeat a candidate. This does not prohibit contributions to a can-

didate, political committee or party by a person other than a treasurer or candidate or the spending, by any person, of that person's own money, except as otherwise provided in this chapter.

3. Certain spending prohibited. The spending of money for alcoholic beverages on election day is prohibited.

§ 1395. Limitations on expenditures and contributions

1. Limitation on expenditures. The following provisions shall govern expenditures by candidates for political office.

A. Governor. No candidate for the office of Governor shall make or authorize expenditures on behalf of such candidacy in excess of \$65,000 in a primary election or in excess of \$130,000 in a general election.

B. State Senator. No candidate for the office of State Senator shall make or authorize expenditures on behalf of such candidacy in excess of \$2,500 in a primary election or in excess of \$5,000 in a general election.

C. House of Representatives. No candidate for the office of State Representative shall make or authorize expenditures on behalf of such candidacy in excess of \$1,875 in a primary election or in excess of \$3,750 in a general election.

D. Other political offices, primary election. No candidate for political office other than Governor, State Senator or State Representative shall, in a primary election, make or authorize expenditures on behalf of such candidacy in excess of 25¢ multiplied by the number of votes cast for all legally qualified candidates for such office in the last preceding general election for such office.

2. Limitations on expenditures from personal funds. No candidate for political office shall make or authorize expenditures from his personal funds or the personal funds of his immediate family on behalf of such candidacy, whether in a primary election or a general election, in excess of:

E. Other political offices, general election. No candidate for political office other than Governor, State Senator or State Representative shall, in a general election, make or authorize expenditures on behalf of such candidacy in excess of 50¢ multiplied by the number of votes cast for all legally qualified candidates for such offices in the last preceding general election for such office.

A. \$35,000 in the case of a candidate for the office of Governor;

B. \$5,000 in the case of a candidate for the office of State Senator;

C. \$3,750 in the case of a candidate for the office of State Representative;
or

D. \$5,000 in the case of a candidate for political office other than that of Governor, State Senator or State Representative.

The totals mentioned in this subsection are cumulative with respect to the primary and general elections and are to be included in the totals allowable

under subsection 1. For the purposes of this subsection, "immediate family" includes a candidate's spouse and any child, parent, grandparent, brother or sister of the candidate and the spouse of such persons.

3. Limitations on contributions. No natural person, other than a candidate or a member of a candidate's immediate family as defined in subsection 2, shall make contributions to a candidate or to a political committee, or to both, in support of the candidacy of one person, in an aggregate amount greater than \$1,000, in a primary election or a general election. No political committee, other committee, corporation or association shall make contributions to a candidate or to a political committee, or to both, in support of the candidacy of one person, in an aggregate amount greater than \$5,000 in a primary election or general election. If the total amounts allowable under this subsection exceed the total amounts allowable under subsection 1, the totals allowable under subsection 1 shall control.

4. Expenditures on behalf of a candidate. Expenditures on behalf of a candidate for political office shall be deemed to have been made or authorized by such candidate and shall be included in the totals allowable under subsections 1 and 2. No person, association, corporation or combination thereof shall make or authorize expenditures on behalf of a candidate for political office without written approval of such candidate.

5. Expenditures against a candidate. No person, association, corporation or combination thereof shall make or authorize expenditures against a candidate for political office and thereby indirectly support another candidate or candidates without the written approval of such other candidate or one of such other candidates. Such expenditures shall be included in the totals allowable under subsections 1 and 2.

6. Filing. The written approval required by subsections 3 and 4 shall be filed with the commission within 48 hours of the time it is executed.

7. Written political material. All written political material published and distributed as a flyer, handbill or other nonperiodical publication shall state thereon the name of the person or committee responsible for the publication or distribution of the material or the name of the print shop, printer or person printing, mimeographing or otherwise publishing the material.

§ 1396. Records

Each treasurer or each candidate shall keep detailed records of all contributions received and of each expenditure made or authorized by him in the campaign.

1. Account of contributions; segregated funds. Every person who receives a contribution in excess of \$10 for a candidate or a political committee shall, on demand of the treasurer or candidate, and in any event within 5 days after receipt of such contribution, render to the treasurer or candidate a detailed account thereof, including the amount of the contribution and the identification of the person making such contribution, and the date on which received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members or associates of such committee.

2. **Recordkeeping.** It shall be the duty of the treasurer of a political committee or of a candidate to keep a detailed and exact account of:

A. All contributions made to or for such candidate or committee;

B. The identification of every person making a contribution in excess of \$10 and the date and amount thereof, and, if a person's contributions in an aggregate amount are more than \$50, the account shall include occupation and the principal place of business, if any;

C. All expenditures made by or on behalf of such committee or candidate; and

D. The identification of every person to whom any expenditure is made and the date and amount thereof.

3. **Receipts preservation.** It shall be the duty of the treasurer or of a candidate to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee or a candidate in excess of \$50 in amount, and for any such expenditure in a lesser amount if the aggregate amount of any such expenditures to the same person during a calendar year exceeds \$50. The treasurer or candidate shall preserve all receipted bills and accounts required to be kept by this section for periods of time to be determined by the commission.

§ 1397. Reports

1. **Reports.** Campaign reports shall be filed with the commission by each candidate and by the treasurer of each political committee. The treasurer of a municipal committee shall not file campaign reports with the commission, but the amounts of money received and spent and the liabilities incurred by his committee shall be filed with the treasurer of the county committee, who shall forward such reports with the county committee report to the commission.

2. **Federal and gubernatorial candidates; major parties.** The state committees of the major political parties and candidates for federal office and the treasurers of the political committees of such candidates shall file one copy of the completed report required of them by federal law with the commission on the same day as required by federal law. Candidates for Governor and the treasurers of their political committees shall file a report of the same form and content on the same dates as required of federal candidates by the federal law, except for the first campaign report, which shall be filed on or before April 10th of the election year and except for the final campaign report, which shall be filed not later than 45 days after the election.

3. **When filed.** A report for a candidate for political office other than that of Governor must be filed with the commission not later than 5 p.m. on the 7th day before the date on which any election is held and shall be complete as of the 11th day before the date of such election. Such report shall set forth the totals of contributions and expenditures made within 6 months immediately preceding the date of the election. If a report has been filed for the same candidacy for a primary election, such report shall set forth the totals

of contributions and expenditures made since the date of the primary election. In addition, a report must be filed with the commission within 45 days after any election, primary or general, showing the totals of the entire campaign. After filing such final report, the disposition of any surplus or deficit shown on this report shall be reported to the commission every 3 months until such time as such surplus shall have been disposed of or such deficit shall have been liquidated.

4. Reports on initiative and referendum campaigns. Any person, corporation, public utility, association, governmental agency or political committee which accepts contributions or makes or authorizes expenditures to initiate, promote or defeat a referendum pursuant to the Constitution, Article IV, Part 3, section 17 or an initiative pursuant to the Constitution, Article IV, Part 3, section 18 or legislation expressly conditioned upon ratification by a referendum vote shall file with the commission a report of the source, amount and date of all such contributions and expenditures at the end of every month during which contributions are accepted or expenditures made or authorized for such purpose. In addition, a report must be filed with the commission within 45 days after the date of filing of any initiative petitions or the date of any referendum election.

5. Content. The report must contain the itemized amounts of contributions received and the name and address of each donor. It must contain the itemized amounts of expenditures made or authorized, the purpose of each and the name of each payee and creditor. The name and address of a donor of whose contributions total less than \$50 need not be included. Total contributions of less than \$500, except when contributions by one donor accumulating to \$50 or more are included, and total expenditures of less than \$500 need not be itemized.

6. Secretary of State to prepare forms. The Secretary of State shall prepare forms for the reports required by this chapter. A person preparing such reports may use additional pages if necessary, but such pages shall be of the same size as the pages of the form.

§ 1398. Failure to file report on time

1. Fine.

A. A person who fails to file a campaign report within the time required by this chapter shall be assessed by the commission not more than \$5 for each day such person is in default unless excused by the commission.

2. Disqualified. If the assessment is not paid at the order of the commission, the person becomes disqualified and his name shall not be printed on an official ballot used at any election held during the same calendar year.

3. Appeal. A person aggrieved by an order of the commission may appeal to the Superior Court within 5 days after being notified of the decision by presenting a written complaint. The court shall fix a time and place for immediate hearing. It shall order notice of the hearing to be given to the commission. Within 7 days after the hearing, the court shall affirm, modify or reverse the decision of the commission and its decision is final.

§ 1399. Meetings

The commission shall meet in Augusta and review the final campaign reports for primary and general elections within 7 days after the final filing date provided in this chapter. The commission shall meet before or after a special election as necessary.

§ 1400. Investigations

1. Investigations. The commission may investigate to determine the facts concerning contributions to and expenditures by any candidate, treasurer or political committee. For this purpose, the commission may subpoena witnesses and records and take evidence under oath. A person who fails to obey the lawful subpoena of the commission or to testify before it under oath shall be punished by the Superior Court for contempt on application by the commission.

2. Investigation requested. Any person may make written application to the commission requesting an investigation and stating his reasons for it. The commission shall review the application and shall make the investigation if the reasons stated show sufficient grounds for believing that a violation may have occurred.

3. State Auditor. The State Auditor shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and shall have all necessary powers to carry out such responsibilities.

4. Attorney General. The Attorney General is counsel for the commission. He shall examine the witness before the commission.

§ 1401. Violations

Any violation of this chapter for which a penalty is not otherwise provided shall be a Class E crime. The Attorney General shall prosecute any such violation.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This bill is one of the results of the study order to the Election Law Committee to review the election laws in general.

The bill repeals and replaces chapter 35, on campaign finances and reports. Most of the bill is not new but is a reorganization and clarification of this chapter which has been amended and added to frequently in recent years.

The principal substantive changes proposed by the bill are as follows:

1. The definitions of contributions and expenditures are clarified and expanded. A number of specific terms which either are or are not included in these definitions are spelled out for greater understanding.

2. The expenditure limits for candidates to the Maine House of Representatives are clarified. The present law was drafted in such a way that candidates in multimember districts could technically spend more than the Legislature had intended any one candidate to be able to spend. The bill sets specific dollar limits to apply in the 1976 election and also in the 1978 election. A specific dollar limit is necessary for the 1978 election because there will be some redistricting as a result of the abolition of multimember districts and it would not be possible to apply a formula using the number of votes previously cast in an electoral district.

3. The expenditure limits for candidates for Governor and for State Senator are changed, with the use of specific dollar limits instead of a formula.

4. Limitations on contributions, by persons other than the candidate or the candidate's immediate family, are established for the first time.

5. The time for filing campaign reports prior to the election is changed. The present law calls for a report 45 days before the election, a time when there has been little significant spending in most Maine campaign other than for the Governorship. The bill would require a report to be filed 7 days before the election, covering the period up to 11 days before the election. There would still be a final report 45 days after the election.