

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 365

6
7 H.P. 306

House of Representatives, February 1, 1983

8 On Motion of Representative Nadeau of Lewiston referred to the Com-
9 mittee on Election Laws. Sent up for concurrence and order printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Handy of Lewiston.

Cosponsors: Representative Rolde of York, Senator Violette of Aroostook
and Representative Gauvreau of Lewiston.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT Regulating the Activities of
18 Political Action Committees.
19

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

22 21 MRSA c. 38 is enacted to read:

23 CHAPTER 38

24 REPORTS BY POLITICAL ACTION COMMITTEES

25 §1551. Application

26 This chapter applies to the activities of polit-
27 ical action committees organized in this State and
28 which expend in excess of \$50 or more in any one cal-
29 endar year for the election of Governor, state or
30 county officers or for the support or defeat of any
31 campaign as defined in this chapter.

1 §1552. Definitions

2 As used in this chapter, unless the context indi-
3 icates otherwise, the following terms have the follow-
4 ing meanings.

5 1. Campaign. "Campaign" means any course of ac-
6 tivities for a specific purpose such as the initia-
7 tion, promotion or defeat of a candidate or question,
8 including:

9 A. The referendum procedure pursuant to the Con-
10 stitution of Maine, Article IV, Part Third,
11 Section 17;

12 B. The initiative procedure pursuant to the Con-
13 stitution of Maine, Article IV, Part Third,
14 Section 18;

15 C. An amendment to the Constitution of Maine
16 pursuant to Article X, Section 4;

17 D. Legislation expressly conditioned upon
18 ratification by a referendum vote pursuant to the
19 Constitution of Maine, Article IV, Part Third,
20 Section 19; and

21 E. The ratification of the issue of bonds by the
22 State or any agency thereof.

23 2. Commission. "Commission" means the Commis-
24 sion on Governmental Ethics and Election Practices,
25 established pursuant to Title 1, section 1002.

26 3. Committee. "Committee" means any political
27 action committee as defined in this chapter and
28 includes any agent of a political action committee.

29 4. Contribution. "Contribution" includes:

30 A. A gift, subscription, loan, advance or
31 deposit of money or anything of value, except a
32 loan of money by a financial institution made in
33 accordance with applicable banking laws and regu-
34 lations and in the ordinary course of business,
35 made to a political action committee as defined
36 in this chapter;

- 1 B. A contract, promise or agreement, expressed
2 or implied, whether or not legally enforceable,
3 to make a contribution to a political action com-
4 mittee;
- 5 C. Any and all funds received by a political ac-
6 tion committee which are to be transferred to any
7 candidate, committee, campaign or organization
8 for the purpose of promoting, defeating or ini-
9 tiating a candidate, campaign referendum, polit-
10 ical party or initiative in this State; or
- 11 D. The payment, by any person or organization,
12 of compensation for the personal services of
13 other persons rendered to a political action com-
14 mittee which is used by the political action com-
15 mittee for the purpose of promoting, defeating or
16 initiating a candidate, campaign political party,
17 referendum or initiated petition in this State.
- 18 5. Expenditure. "Expenditure" includes:
- 19 A. A purchase, payment, distribution, loan,
20 advance, deposit or gift of money or anything of
21 value, made for the purpose of influencing the
22 nomination or election of any person to political
23 office; or for the initiation, support or defeat
24 of a campaign, referendum or initiative in this
25 State;
- 26 B. A contract, promise or agreement, expressed
27 or implied, whether or not legally enforceable,
28 to make any expenditure for the purposes set
29 forth in paragraph A; and
- 30 C. The transfer of funds by a political action
31 committee to another candidate or political com-
32 mittee, but does not include:
- 33 (1) Any news story, commentary or editorial
34 distributed through the facilities of any
35 broadcasting station, newspaper, magazine or
36 other periodical publication, unless these
37 facilities are owned or controlled by any
38 political party, political committee or can-
39 didate;

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

4 (3) Any communication by any membership
5 organization or corporation to its members
6 or stockholders, if that membership orga-
7 nization or corporation is not organized
8 primarily for the purpose of influencing the
9 nomination or election of any person to
10 state or county office;

11 (4) The use of real or personal property
12 and the cost of invitations, food and bever-
13 ages, voluntarily provided by a political
14 action committee in rendering voluntary per-
15 sonal services for candidate-related activi-
16 ties, if the cumulative value of these ac-
17 tivities by the political action committee
18 on behalf of any candidate does not exceed
19 \$50 with respect to any election;

20 (5) Any unreimbursed payment for travel
21 expenses made by a political action commit-
22 tee which, on its own behalf, volunteers
23 personal services to a candidate, if the
24 cumulative amount for those services to the
25 candidate does not exceed \$50 with respect
26 to any election; and

27 (6) Any communication by any political ac-
28 tion committee member which is not made for
29 the purpose of influencing the nomination
30 for election, or election, of any person to
31 state or county office.

32 6. Person. "Person" means an individual, com-
33 mittee, firm, partnership, corporation, association
34 or any other group or organization of persons.

35 7. Political action committee. "Political ac-
36 tion committee" includes:

37 A. Any separate or segregated fund established
38 by any corporation, membership organization,
39 cooperative or labor organization whose purpose
40 is to influence the outcome of an election
41 including a candidate or question; and

1 B. Any person, as defined in subsection 6 which
2 serves as a funding and transfer mechanism and by
3 which moneys are expended to advance, promote,
4 defeat, influence in any way, or initiate a can-
5 didate, campaign, political party, referendum or
6 initiated petition in this State.

7 8. Secretary. "Secretary" means the Secretary
8 of State.

9 §1553. Registration

10 Every political action committee which expends or
11 intends to expend in excess of \$50 in any single cal-
12 endar year to initiate, support, defeat or influence
13 in any way a campaign, a referendum, initiated peti-
14 tion, candidate, political committee or another
15 political action committee shall register with the
16 commission on forms prescribed by the commission.
17 These forms shall include the following information
18 and any additional information required by the com-
19 mission or the Secretary of State to monitor the ac-
20 tivities of political action committees in Maine:

21 1. Identification of committee. The names and
22 mailing addresses of the committee, its treasurer and
23 its principal officers;

24 2. Status. A statement whether the political
25 action committee is a continuing one;

26 3. Depository of funds. The names and addresses
27 of the depositories in which funds of the committee
28 are kept and the account numbers of each depository
29 account;

30 4. Form of organization. The form or structure
31 of organization including cooperatives, corporations,
32 voluntary associations, partnerships or any other
33 structure by which the committee functions. The date
34 of origin or incorporation shall also be specified;

35 5. Assets. The total assets of the committee at
36 the time of registration in Maine to be itemized and
37 to include deposits in financial institutions, real
38 property, personal property, investments, cash and
39 any other form of wealth available to the committee;

1 6. Statement of support or opposition. A state-
2 ment indicating the position of the committee, sup-
3 port or opposition, with respect to a candidate,
4 political committee, referendum, initiated petition
5 or campaign, if known at the time of registration.
6 If a committee has no position on a candidate, cam-
7 paign or issue at the time of registration, the com-
8 mittee shall inform the commission as soon as the
9 committee knows this information; and

10 7. Contributions to committee. The names and
11 mailing addresses of contributors who donate in
12 excess of \$50 each year to the committee with the
13 amount or value of each contribution at the time of
14 registration. Any person, as defined in section
15 1552, who makes contributions on an installment
16 basis, the total of which exceeds \$50 in the calendar
17 year, shall be considered a contributor to be identi-
18 fied according to this subsection.

19 §1554. Appointment of treasurer

20 Any political action committee, required to
21 register under section 1553, shall appoint a treasurer
22 prior to making any expenditure as defined in this
23 chapter. The treasurer shall retain, for a minimum
24 of 4 years, all receipts including cancelled checks
25 of expenditures made in support of or opposition to a
26 campaign, political committee, political action com-
27 mittee, referendum or initiated petition in this
28 State.

29 §1555. Reports, qualifications for filing

30 Any political action committee that expends in
31 excess of \$50 on any one or more campaigns for the
32 office of Governor, for state or county office or for
33 the support or defeat of a referendum or initiated
34 petition shall file a report with the commission on
35 forms as prescribed by the commission, as provided in
36 this section. Any political action committee re-
37 quired under this section to file a report shall file
38 the report for each filing period as defined in sec-
39 tions 1556 and 1557, whether or not the expenditures
40 are in excess of \$50 in any one period.

41 §1556. Quarterly and annual reports-filing dates

1 In any calendar year in which there is an elec-
2 tion, primary or campaign, a committee, required to
3 register under section 1553, shall file quarterly and
4 annual reports with the commission in addition to the
5 other reports required in this section. The reports
6 required in subsections 1 to 3 shall contain itemized
7 expenditures required by the commission to closely
8 monitor the activities of political action commit-
9 tees, aggregate expenditures for the periods between
10 the filing dates specified and cumulative aggregated
11 expenditures to include all preceding reporting
12 periods. The commission may accept computer print
13 out sheets that contain the information required by
14 this chapter. Following registration, a committee
15 shall comply with the applicable filing periods.

16 1. General elections. Reports shall be filed no
17 later than 5:00 p.m.:

18 A. On the 300th day and shall be complete on the
19 293rd day before the date on which a general
20 election is to be held. The expenditures in this
21 report shall include all previous expenditures,
22 if any, made by the committee to influence, in
23 any way, the outcome of a general election;

24 B. On the 210th day and shall be complete on the
25 205th day prior to the date on which a general
26 election is to be held;

27 C. On the 125th day and shall be complete on the
28 120th day prior to the date on which a general
29 election is to be held;

30 D. On the 35th day and shall be complete on the
31 30th day prior to the date on which a general
32 election is to be held; and

33 E. On the 30th day following the date on which a
34 general election was held. This report shall be
35 a combined quarterly report and an annual report.
36 It shall aggregate all expenditures made to
37 influence, in any way, the outcome of a general
38 election.

39 2. Primary elections. Reports shall be filed no
40 later than 5:00 p.m.:

- 1 A. On the 150th day and shall be complete on the
2 145th day before the date on which a primary
3 election is to be held. The expenditures in this
4 report shall include all previous expenditures,
5 if any, made by the committee to influence, in
6 any way, the outcome of a primary election;
- 7 B. On the 90th day and shall be complete on the
8 85th day before the date on which a primary elec-
9 tion is to be held;
- 10 C. On the 30th day and shall be complete on the
11 25th day before the date on which a primary elec-
12 tion is to be held; and
- 13 D. On the 30th day following the date on which a
14 primary election was held. This report shall be
15 a combined quarterly report and an annual report.
16 It shall aggregate all expenditures made to
17 influence, in any way, the outcome of a primary
18 election.
- 19 3. Referenda, initiated petitions, bond ques-
20 tions. Reports shall be filed no later than 5:00
21 p.m.:
- 22 A. On January 5th and shall be complete on Janu-
23 ary 10th. The expenditures in this report shall
24 include all previous expenditures, if any, made
25 by the committee to influence, in any way, the
26 outcome of a vote on any referendum, initiated
27 petition or bond question;
- 28 B. On April 1st and shall be complete on April
29 5th;
- 30 C. On July 1st and shall be complete on July
31 10th;
- 32 D. On October 1st and shall be complete on Octo-
33 ber 5th; and
- 34 E. On December 20th and shall be complete on
35 December 30th. This report shall be a combined
36 quarterly report and an annual report. It shall
37 aggregate all expenditures made to influence the
38 outcome of a vote on a referendum, initiated
39 petition or bond question.

1 §1557. Filing periods

2 The dates by which the reports required by this
3 chapter are to be filed are as follows.

4 1. Reports to be filed by January 15th. In any
5 calendar year, other than a year in which an election
6 for Governor is held, in which a political action
7 committee makes an expenditure in excess of \$50 for
8 the purpose defined in section 1552, subsection 5,
9 shall file reports not later than 5 p.m. on January
10 15th of the following calendar year, or if that date
11 falls on a Saturday or Sunday not later than 5 p.m.
12 on the following Monday, and shall be complete as of
13 the close of the calendar year with respect to which
14 the report is filed.

15 2. Reports to be filed by 42nd day before elec-
16 tion. Reports shall be filed not later than 5 p.m.
17 on the 42nd day before the date on which an election
18 is held and shall be complete as of the 49th day
19 before that date. If no report was filed under sub-
20 section 1, the report required under this subsection
21 shall cover the 6 months immediately preceding the
22 completion date.

23 3. Reports to be filed by 7th day before elec-
24 tion. Reports shall be filed not later than 5 p.m.
25 on the 7th day before the date on which an election
26 is held and shall be complete as of the 11th day
27 before that date.

28 4. Expenditure after the 11th day and more than
29 48 hours before any election. Any expenditure of
30 \$100 or more, made after the 11th day and more than
31 48 hours before any election, shall be reported
32 within 48 hours of that contribution or expenditure.

33 5. Reports to be filed by 42nd day after elec-
34 tion. Reports shall be filed not later than 5 p.m.
35 on the 42nd day after the date on which an election
36 is held and shall be complete for the entire election
37 campaign as of the 35th day after that date.

38 §1558. Content of reports

1 The reports shall contain the following informa-
2 tion and any additional information required by the
3 commission to monitor the activities of political ac-
4 tion committees:

5 1. Identification of candidates. The names and
6 mailing addresses of any candidate whom the committee
7 supports, intends to support or seeks to defeat. The
8 report shall indicate the office that the candidate
9 is seeking, the political party represented by the
10 candidate, if any, the date of the contest and
11 whether the contest is an election or a primary;

12 2. Identification of committees; parties. The
13 names and mailing addresses of any political commit-
14 tee, political action committee or political party
15 supported in any way by the registrant;

16 3. Identification of referendum or initiated
17 petition. The referendum or initiated petition which
18 the committee supports or opposes and the names and
19 mailing addresses of the organizations to which
20 expenditures were made;

21 4. Itemized expenditures. An itemization of
22 expenditures and the date of each expenditure made to
23 support or oppose any candidate, campaign, political
24 committee, political action committee, political
25 party, referendum or initiated petition. The commis-
26 sion may specify the categories of expenditures which
27 are to be reported to enable the commission to
28 closely monitor the activities of political action
29 committees;

30 5. Aggregate expenditures. An aggregation of
31 expenditures and cumulative aggregation of expendi-
32 tures to a candidate, campaign, political committee,
33 political action committee, referendum or initiated
34 petition; and

35 6. Identification of contributions. Names and
36 mailing addresses of contributors to the political
37 action committee, the amount contributed by each
38 donor and the date of the following contribution fol-
39 lowing registration of the committee under section
40 1553. The information required in this subsection
41 shall be kept separate from the information required
42 in section 1553, subsection 7.

1 §1559. Expenditure limitations

2 Any committee required to register under this
3 chapter shall comply with the following expenditure
4 limitations.

5 1. Aggregate expenditures. No committee may
6 make expenditures to a candidate in support of the
7 candidacy of one person, to a political committee or
8 in support of or opposition to a referendum or ini-
9 tiated petition or any other campaign in an aggregate
10 amount greater than \$5,000 in any election.

11 2. Prohibited expenditures. No committee may
12 make any expenditure for liquor to be distributed to
13 or consumed by voters while the polls are open on
14 election day.

15 3. Registration requirement. No political ac-
16 tion committee may make any expenditures, the total
17 of which exceeds \$50 each calendar year, unless it is
18 registered as required in section 1553.

19 §1560. Records

20 Any political action committee that makes an
21 expenditure in the aggregate which exceeds \$50 to any
22 one or more candidates, committees or campaigns in
23 this State shall keep records as provided in this
24 section.

25 1. Details of records. It shall be the duty of
26 the treasurer of a political action committee to
27 record a detailed account of:

28 A. All expenditures made to or in behalf of a
29 candidate, campaign or committee;

30 B. The identity and address of each candidate,
31 campaign or committee;

32 C. The office sought by a candidate and the dis-
33 trict he seeks to represent for which a political
34 action committee made an expenditure; and

35 D. The date of each expenditure.

1 2. Receipts. It shall be the duty of the treas-
2 urer of a political action committee to retain for a
3 4-year period all receipts of expenditures made for a
4 candidate, committee or campaign in this State.
5 Receipts may be in the form of cancelled checks.

6 3. Record of contributions. The treasurer of a
7 political action committee shall keep a record of all
8 contributions to the committee, by name and mailing
9 address, of each donor and the amount and date of the
10 contribution. This provision does not apply to con-
11 tributions which are less than \$51 each for a general
12 election, primary election and campaign.

13 §1561. Dissolution of committees

14 Whenever any political action committee disbands
15 or determines that obligations will no longer be
16 incurred and no expenditures will be made to any candi-
17 date, political committee or political party, or to
18 initiate, support, defeat or influence in any way the
19 outcome of a referendum, initiated petition, election
20 or primary, and the committee has no outstanding
21 obligations, it shall file a termination report with
22 the Secretary of State. If a termination report is
23 not filed, the committee shall continue to file peri-
24 odic reports as required in this chapter.

25 §1562. Publication or distribution of statements

26 Whenever any political action committee makes an
27 expenditure for the purpose of financing communica-
28 tions expressly advocating the initiation, promotion
29 or defeat of a question or candidate through broad-
30 casting stations, newspapers, magazines, outdoor
31 advertising facilities, direct mails and other simi-
32 lar types of general public political advertising and
33 through flyers, handbills, bumper stickers and other
34 nonperiodical publications, these communications
35 shall clearly and conspicuously state the name and
36 address of the political action committee which made
37 or financed the expenditure for the communication.

38 No person operating a broadcasting station within
39 this State may broadcast any such communication with-
40 out an oral or visual announcement of the name and
41 address of the political action committee which made

1 or financed the expenditure for the communication and
2 a statement that shall read: "A copy of our report
3 is available from and may be viewed at the office of
4 the Secretary of State."

5 §1563. Failure to file report on time

6 There shall be a penalty of \$50 for each day that
7 a report required to be filed under this chapter is
8 late. The commission shall determine whether a
9 report received after the date required by this chap-
10 ter is late and, if determined to be late, the number
11 of days of lateness.

12 The commission, upon determining that report is
13 late, shall notify the Secretary of State of the
14 lateness. The Secretary of State shall have initial
15 responsibility for collecting the full amount of any
16 penalty within 30 days after receiving from the com-
17 mission notice of a report's lateness. The Secretary
18 of State shall have all necessary powers to carry out
19 this responsibility.

20 Failure to pay the full amount of any penalty
21 levied under this section is a civil violation.
22 Thirty days after receiving notice of the lateness of
23 any report, the Secretary of State shall report to
24 the Attorney General the name of any political action
25 committee which has failed to pay the full amount of
26 any penalty. The Attorney General shall enforce this
27 violation in a civil action to collect the full
28 amount outstanding of the penalty. The action shall
29 be brought in the Superior Court for the County of
30 Kennebec or the District Court, 7th District, Divi-
31 sion of Southern Kennebec.

32 §1564. Investigations

33 The commission may investigate to determine the
34 facts concerning the registration of any political
35 action committee, contributions to and any expendi-
36 tures by any political action committee for the pur-
37 poses as defined in this chapter. For this purpose,
38 the commission may subpoena witnesses and records and
39 take evidence under oath. Any political action com-
40 mittee which fails to obey the lawful subpoena of the
41 commission or to testify before it under oath shall

1 be punished by the Superior Court for contempt on
2 application by the Attorney General on behalf of the
3 commission.

4 1. Investigation requested. Any person may make
5 written application to the commission requesting an
6 investigation concerning the registration of, contri-
7 butions to and expenditures by any political action
8 committee. The commission shall review the applica-
9 tion and shall make the investigation, if the reasons
10 stated for the request show sufficient grounds for
11 believing that a violation may have occurred.

12 2. State Auditor; Secretary of State. The State
13 Auditor and the Secretary of State shall assist the
14 commission in making investigations and in other
15 phases of the commission's duties under this chapter,
16 as requested by the commission, and shall have all
17 necessary powers to carry out these responsibilities.

18 3. Attorney General. The Attorney General shall
19 be the counsel for the commission and may examine any
20 witnesses before the commission. The commission
21 shall refer any apparent violations of this chapter
22 to the Attorney General for prosecution.

23 §1565. Violations

24 1. Contributions. No political action committee
25 may knowingly make or accept any contribution or make
26 any expenditure in violation of this chapter.

27 2. False statement in report. No political ac-
28 tion committee may make a false statement in any
29 report required by this chapter.

30 3. Registration. No political action committee
31 may function in this State, unless it is registered
32 in accordance with section 1553 or unless it is ac-
33 cepted by the provisions thereof.

34 §1566. Penalty

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

1 STATEMENT OF FACT

2 Political action committees (PACS), organized by
3 corporations, labor unions and other interest groups
4 are fast becoming major funding sources for political
5 campaigns, referendum issues and political parties.
6 The reason for the significant increase in political
7 action committee activity across the nation is due,
8 in part, to federal and state contribution limita-
9 tions on individual, corporate and labor union con-
10 tributions.

11 Under federal law, the Federal Election Campaign
12 Act, corporations and labor unions are prohibited
13 from making contributions to any candidate seeking
14 federal office. Corporations and labor unions are
15 permitted to contribute to political action commit-
16 tees. Federal law limits individual contributions to
17 political action committees to \$5,000 each campaign.
18 Political action committees are restricted to maximum
19 contributions of \$5,000 each candidate each campaign.

20 State law sets very few limits with respect to
21 political action committees. There are no reporting
22 requirements for political action committees as exist
23 for political committees, political parties and candi-
24 dates for political office. The only restriction
25 in Maine law is a \$5,000 limit on a political action
26 committee contribution to any candidate each elec-
27 tion. Federal and state laws do not restrict the
28 number of candidates funded by a single political ac-
29 tion committee. In addition, a political action com-
30 mittee may contribute unlimited funds to a referendum
31 campaign.

32 There is no way to accurately ascertain the
33 degree of political action committee activity in the
34 State during an election, primary or referendum cam-
35 paign. Without reporting requirements for political
36 action committees, it is not possible to determine
37 how much money is generated by political action com-
38 mittees for use in elections and referendums in
39 Maine.

40 This bill proposes to place similar requirements
41 on political action committees as presently exist for
42 political candidates and political parties with

1 respect to funding. Accordingly, this bill requires:

2 1. The registration of all political action com-
3 mittees which expend in excess of \$50 each calendar
4 year, see section 1553, with the Commission on Gov-
5 ernmental Ethics and Election Practices;

6 2. Political action committees (PACS) to report
7 to the commission, the candidates, political commit-
8 tees, parties, referenda and initiated petitions that
9 the political action committees intend to support or
10 defeat, see section 1558;

11 3. Political action committees to report all
12 expenditures made to support or defeat a candidate,
13 referendum, etc., see section 1558;

14 4. Political action committees to meet the same
15 expenditure limitations that apply to political com-
16 mittees, parties, corporations, etc., \$5,000 each
17 candidate each election;

18 5. Political action committees to report all
19 contributions by contributor and amount of each con-
20 tribution, the minimum of which is \$50 each year, at
21 the time of registration and throughout an election,
22 primary or referendum campaign;

23 6. A political action committee to maintain
24 records, see section 1558, identifying contributions
25 to and expenditures of the political action commit-
26 tee; and

27 7. A political action committee to file quar-
28 terly and annual reports, see section 1556.

29 0285010383