

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1299

H.P. 923

House of Representatives, April 11, 1995

An Act to Restrict Private Political Campaign Contributions in State Elections.

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RICHARDSON of Portland.
Cosponsored by Representative CARLETON of Wells and
Representatives: BARTH of Bethel, BRENNAN of Portland, CAMERON of Rumford,
CAMPBELL of Holden, DESMOND of Mapleton, ETNIER of Harpswell, JOHNSON of
South Portland, LEMONT of Kittery, MORRISON of Bangor, RICE of South Bristol, SAXL
of Portland, SHIAH of Bowdoinham, TRUE of Fryeburg, Senators: BUSTIN of Kennebec,
FAIRCLOTH of Penobscot, PARADIS of Aroostook.

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

4 **Sec. 1. 1 MRSA §1001**, as enacted by PL 1975, c. 621, §1, is amended to read:

6 **§1001. Statement of purpose**

8 It is essential under the American system of representative
10 government that the people have faith and confidence in the
12 integrity of the election process and the members of the
14 Legislature. In order to strengthen this faith and confidence
16 that the election process reflects the will of the people and
18 that each Legislator considers and casts ~~his~~ votes on the
20 enactment of laws according to the best interests of the public
and ~~his~~ the Legislator's constituents, there is created an
independent commission on elections and governmental ethics and
election--practices to guard against corruption or undue
influencing of the election process, to administer the campaign
finance laws and to guard against acts misconduct or the
appearance of misconduct by Legislators.

22 **Sec. 2. 1 MRSA §1002**, as amended by PL 1991, c. 880, §1, is
24 further amended by repealing and replacing the headnote to read:

26 **§1002. Maine Elections and Ethics Commission**

28 **Sec. 3. 1 MRSA §1002, sub-§1**, as amended by PL 1991, c. 880,
§1, is repealed and the following enacted in its place:

30 1. Membership. The Maine Elections and Ethics Commission,
32 established by Title 5, section 12004-G, subsection 33, referred
to in this subsection as the "commission," consists of 6 members
appointed as follows.

34 A. The Chief Justice of the Supreme Judicial Court, the
36 Governor and the Chancellor of the University of Maine
System shall appoint 6 members with confirmation by the
38 Senate.

40 B. Each member is appointed in January of each
42 even-numbered year and serves a term of 2 years from the
date of appointment or until a successor is appointed and
44 confirmed.

46 C. The members shall, by concurring vote of at least 5
48 members, elect one of their members to serve as chair. The
chair serves a term of 2 years or until a successor is
appointed and confirmed.

2 **Sec. 4. 1 MRSA §1005**, as enacted by PL 1975, c. 621, §1, is
amended to read:

4 **§1005. Open meetings**

6 Notwithstanding any other provision of law, all meetings,
hearings or sessions of the commission shall ~~shall~~ must be open to the
8 general public unless, by an affirmative vote of at least ~~6~~ 5
members, the commission requires the exclusion of the public.

10 **Sec. 5. 1 MRSA §1007**, as amended by PL 1989, c. 561, §1, is
12 further amended to read:

14 **§1007. Annual report**

16 The commission shall submit to the Legislature and the
public an annual report discussing its activities under this
18 chapter and any changes it considers necessary or appropriate
regarding ethical standards or campaign finance regulation and
20 reporting.

22 **Sec. 6. 3 MRSA §313**, as repealed and replaced by PL 1993, c.
691, §10, is amended to read:

24 **§313. Registration of lobbyists and employers**

26 Every employer of a lobbyist and every lobbyist and lobbyist
28 associate who lobbies on behalf of that employer shall register
jointly at the office of the commission no later than 15 business
30 days after commencement of lobbying and pay a registration fee
determined by the commission. The fee must be at least \$200 for
32 the registration of each lobbyist and at least \$100 for the
registration of each lobbyist associate. Lobbyists and employers
34 registered under this section shall also pay fees to the Maine
Democracy Fund as required by Title 21-A, section 1072,
36 subsection 3.

38 **Sec. 7. 5 MRSA §12004-G, sub-§33**, as enacted by PL 1987, c.
786, §5, is repealed and the following enacted in its place:

40 **33.**

42 <u>State</u>	<u>Maine</u>	<u>Expenses</u>	<u>1 MRSA</u>
44 <u>Government</u>	<u>Elections</u>	<u>Only</u>	<u>\$1002</u>
	<u>and Ethics</u>		
	<u>Commission</u>		

46 **Sec. 8. 21-A MRSA §335, sub-§5**, as amended by PL 1993, c. 334,
§1, is further amended to read:

48 **5. Number of signatures required.** Petitions must be signed
50 by the following numbers of voters, except that nomination

2 petitions for candidates for Governor, State Senator or State
3 Representative who intend to participate in the Maine Democracy
4 Fund established under section 1072 are subject to the
5 requirements of subsection 5-A:

6 A. For candidate for Governor, at least 2,000 and not more
7 than 3,000 voters;

8 B. For a candidate for United States Senator, at least
9 2,000 and not more than 3,000 voters;

10 B-1. For a candidate for the office of President of the
11 United States, at least 1,000 and not more than 1,500 voters;

12 C. For a candidate for Representative to Congress, at least
13 1,000 and not more than 1,500 voters;

14 D. For a candidate for county office other than county
15 commissioner, at least 150 and not more than 200 voters;

16 E. For a candidate for county commissioner, at least 50 and
17 not more than 75 voters;

18 F. For a candidate for State Senator, at least 100 and not
19 more than 150 voters; and

20 G. For a candidate for State Representative, at least 25
21 and not more than 40 voters.

22 **Sec. 9. 21-A MRSA §335, sub-§5-A is enacted to read:**

23 **5-A. Filing requirements for the Maine Democracy Fund**
24 **candidate. Candidates who intend to participate in the Maine**
25 **Democracy Fund must meet the following requirements.**

26 A. A candidate for Governor must obtain at least 7,500 and
27 not more than 10,000 voter signatures on the candidate's
28 nomination petition and the candidate must pay a \$2,000
29 filing fee payable to the State of Maine.

30 B. A candidate for State Senator must obtain at least 400
31 and not more than 600 voter signatures on the candidate's
32 nomination petition and the candidate must pay a \$250 filing
33 fee payable to the State of Maine.

34 C. A candidate for State Representative must obtain at
35 least 200 and not more than 300 voter signatures on the
36 candidate's nomination petition and the candidate must pay a
37 \$125 filing fee payable to the State of Maine.

2 The Maine Elections and Ethics Commission shall adopt rules
3 necessary to ensure smooth implementation of this subsection.

4 **Sec. 10. 21-A MRSA §335, sub-§6,** as enacted by PL 1985, c.
5 161, §6, is repealed and the following enacted in its place:

6 **6. When signed.** A nomination petition may not be signed
7 before:

10 A. January 1st of the election year in which it is to be
11 used for a nomination petition filed under subsection 5; or

12 B. December 15th of the year preceding the election year in
13 which it is to be used for a nomination petition filed under
14 subsection 5-A.

15 **Sec. 11. 21-A MRSA §354, sub-§5,** as amended by PL 1991, c.
16 362, §§2 and 3, is further amended to read:

17 **5. Number of signatures required.** Nomination petitions
18 must be signed by the following numbers of voters, except that
19 nomination petitions for candidates for Governor, State Senator
20 or State Representative who intend to participate in the Maine
21 Democracy Fund established under section 1072 are subject to the
22 requirements of subsection 5-A:

23 A. For a slate of candidates for the office of presidential
24 elector, at least 4,000 and not more than 6,000 voters;

25 B. For a candidate for Governor, at least 4,000 and not
26 more than 6,000 voters;

27 C. For a candidate for United States Senator, at least
28 4,000 and not more than 6,000 voters;

29 D. For a candidate for United States Representative, at
30 least 2,000 and not more than 3,000 voters;

31 E. For a candidate for county office other than county
32 commissioner or county charter commission member, at least
33 300 and not more than 400 voters;

34 E-1. For a candidate for county commissioner, at least 100
35 and not more than 150 voters;

36 F. For a candidate for State Senator, at least 200 and not
37 more than 300 voters;

38 G. For a candidate for State Representative, at least 50
39 and not more than 80 voters; and

2 H. For a candidate for county charter commission member, at
least 50 and not more than 80 voters.

4

Sec. 12. 21-A MRSA §354, sub-§5-A is enacted to read:

6

5-A. Filing requirements for the Maine Democracy Fund candidate. Candidates who intend to participate in the Maine Democracy Fund must meet the following requirements.

10

A. A candidate for Governor must obtain at least 15,000 and not more than 20,000 voter signatures on the candidate's nomination petition and the candidate must pay a \$2,000 filing fee payable to the State of Maine.

12

14

B. A candidate for State Senator must obtain at least 800 and not more than 1,200 voter signatures on the candidate's nomination petition and the candidate must pay a \$250 filing fee payable to the State of Maine.

16

18

20

C. A candidate for State Representative must obtain at least 400 and not more than 600 voter signatures on the candidate's nomination petition and the candidate must pay a \$125 filing fee payable to the State of Maine.

22

24

The Maine Elections and Ethics Commission shall adopt rules necessary to ensure smooth implementation of this subsection.

26

28

Sec. 13. 21-A MRSA §354, sub-§6, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

30

6. When signed. A nomination petition may not be signed before:

32

34

A. January 1st of the election year in which it is to be used for a nomination petition filed under subsection 5; or

36

B. December 15th of the year preceding the election year in which it is to be used for a nomination petition filed under subsection 5-A.

38

40

Sec. 14. 21-A MRSA §354, sub-§8-A, as enacted by PL 1985, c. 383, §8, is amended to read:

42

44

8-A. Filed with the Secretary of State. A nomination petition must be filed in the office of the Secretary of State by 5 p.m. on the date of the primary election in the election year in which it is to be used or by 5 p.m. on the April 2nd preceding the primary election if the candidate intends to participate in the Maine Democracy Fund.

46

48

50

2 **Sec. 15. 21-A MRSA §371, sub-§3** is enacted to read:

4 **3. Participation in Maine Democracy Fund.** Within 48 hours
6 of being named a candidate by petition or by a party committee, a
8 candidate who is interested in participating in the Maine
10 Democracy Fund must file a declaration of intent to participate
12 as set forth in section 1073. The commission shall adopt rules
14 necessary to ensure smooth implementation of this subsection.

12 **Sec. 16. 21-A MRSA §1001, sub-§1**, as enacted by PL 1985, c.
14 161, §6, is amended to read:

14 **1. Commission.** "Commission" means the Maine Elections and
16 Ethics Commission ~~on Governmental Ethics and Election Practices~~
18 established under Title 1, section 1002.

18 **Sec. 17. 21-A MRSA §1016, sub-§5** is enacted to read:

20 **5. Democracy fund candidates not covered.** This section
22 does not apply to candidates electing to participate in the Maine
24 Democracy Fund in accordance with subchapter IV-A.

24 **Sec. 18. 21-A MRSA §1017, sub-§2**, as amended by PL 1991, c.
26 839, §14 and affected by §34, is repealed and the following
28 enacted in its place:

28 **2. Gubernatorial candidates.** A treasurer of a candidate
30 for the office of Governor shall file reports with the commission
32 as follows. Once the first required report has been filed, each
34 subsequent report must cover the period from the completion date
of the prior report filed. This subsection applies only to those
gubernatorial candidates who choose not to participate in the
Maine Democracy Fund established under section 1072.

36 **A. In any calendar year, other than a gubernatorial**
38 **election year, in which the candidate or the candidate's**
40 **political committee has received contributions in excess of**
42 **\$1,000 or made or authorized expenditures in excess of**
44 **\$1,000, reports must be filed no later than 5 p.m. on July**
46 **15th of that year and January 15th of the following calendar**
year. These reports must include all contributions made to
and all expenditures made or authorized by or on behalf of
the candidate or the candidate's treasurer as of the end of
the preceding month, except those covered by a previous
report.

48 **B. Additional reports must be filed no later than 5 p.m.**
50 **200 days before the election, 186 days before the election,**
172 days before the election, 158 days before the election

2 and every 7 days following until 17 days before the
3 election. These reports must include all contributions made
4 to and all expenditures made or authorized on behalf of the
5 candidate or the candidate's treasurer as of 10 a.m. on the
6 Monday immediately preceding the reporting date, except
7 those covered by a previous report.

8 C. In the final report filed 17 days before the general
9 election, the candidate or candidate's treasurer shall file
10 the final total figure that the candidate will raise for the
11 campaign or the final total figure that the candidate will
12 spend for the election, whichever is greater. Any
13 expenditure beyond this amount is a violation of law.

14 D. Final reports must be filed no later than 5 p.m. on the
15 42nd day after the date on which an election is held and
16 must be complete for the filing period as of the 35th day
17 after that date. A candidate who wins a primary election is
18 subject to the continued reporting requirements specified in
19 paragraphs B and C.

20 E. Unless further reports will be filed in relation to a
21 later election in the same calendar year, the disposition of
22 any surplus or deficit in excess of \$50 shown in the reports
23 described in paragraph D must be reported as provided in
24 this paragraph. The treasurer of a candidate or political
25 committee with a surplus or deficit in excess of \$50 shall
26 file reports semiannually with the commission within 15 days
27 following the end of the 2nd and 4th quarters of the State's
28 fiscal year, complete as of the last day of the quarter,
29 until the surplus is disposed of or the deficit is
30 liquidated. The first report under this paragraph is not
31 required until the 15th day of the period beginning at least
32 90 days from the date of the election. The reports may
33 either be filed in person with the commission on that date
34 or postmarked on that date. The reports must set forth any
35 contributions for the purpose of liquidating the deficit, in
36 the same manner as contributions are set forth in other
37 reports required in this section.

38 F. Unless otherwise specified in this subsection, reports
39 must be complete back to the completion date of the previous
40 report.

41 G. Reports with respect to a candidate who seeks nomination
42 by petition for the office of Governor must be filed on the
43 same dates that reports must be filed with respect to a
44 candidate who seeks that nomination by primary election.

2 **Sec. 19. 21-A MRSA §1017, sub-§3-A, ¶B**, as amended by PL 1991,
c. 839, §15 and affected by §34, is further amended to read:

4 B. Reports for candidates for county office must be filed
6 no later than 5 p.m. on the 6th day before the date on which
an election is held and must be complete as of the 12th day
8 before that date. If a report was not filed under paragraph
A, the report required under this paragraph must cover all
contributions and expenditures through the completion date.

10 **Sec. 20. 21-A MRSA §1017, sub-§3-A, ¶B-1** is enacted to read:

12 B-1. For a candidate for State Senator or State
14 Representative who does not elect to participate in the
16 Maine Democracy Fund established under section 1072,
18 additional reports must be filed no later than 5 p.m. 200
20 days before the election, 186 days before the election, 172
22 days before the election, 158 days before the election and
24 every 7 days following until 17 days before the general
election. These reports must include all contributions made
to and all expenditures made or authorized on behalf of the
candidate or the candidate's treasurer as of 10 a.m. on the
Monday immediately preceding the reporting date, except
those covered by a previous report.

26 **Sec. 21. 21-A MRSA §1017, sub-§3-A, ¶C**, as amended by PL 1991,
c. 839, §15 and affected by §34, is further amended to read:

28 C. Contributions for candidates for county office,
30 contributions aggregating \$1,000 or more from any one
32 contributor or single expenditures of \$1,000 or more, made
after the 12th day before any election and more than 48
34 hours before 5 p.m. on the day of any election must be
reported within 48 hours of those contributions or
36 expenditures, or by noon of the first business day after the
contributions or expenditures, whichever is later.

38 **Sec. 22. 21-A MRSA §1017, sub-§3-A, ¶C-1** is enacted to read:

40 C-1. For a candidate for State Senator or State
42 Representative who does not elect to participate in the
44 Maine Democracy Fund established under section 1072, in the
46 report filed 17 days before the general election, the
48 candidate or candidate's treasurer shall file the final
total figure that the candidate will raise for the campaign
or the final total figure that the candidate will spend for
the election, whichever is greater. Any expenditure beyond
this amount is a violation of law.

2 3. Candidate filing fees. The filing fees consisting of a
3 candidate's check required to be submitted under sections 335 and
4 354 by a candidate who intends to participate in the fund must be
5 deposited in the fund.

6 **§1073. Terms of participating in fund**

8 1. Declaration of intent. Between December 1st of the year
9 preceding the year in which a general election is held and March
10 15th of the election year, an individual interested in
11 participating in the fund must file a declaration of intent to be
12 a candidate for a stated office and of intent to participate in
13 the fund. A candidate who runs in a special election who wishes
14 to participate in the fund must file a declaration of intent with
15 the commission within 48 hours after the candidate is nominated
16 by petition or by a party committee. A candidate who
17 participates in the fund may not accept any contributions or
18 spend any of the candidate's personal funds except as authorized
19 in subsection 2. Checks to the State of Maine deposited in the
20 fund as part of a candidate's filing requirements are not
21 considered contributions.

22 2. Spending limitation; prefiling period. During the time
23 periods specified in subsection 1, an individual who files a
24 declaration under subsection 1 may spend no more than \$150 of the
25 candidate's personal money if the candidate is running for State
26 Representative, no more than \$250 if the candidate is running for
27 the State Senate and no more than \$1,000 if the candidate is
28 running for Governor. This sum of money may be spent only to
29 prepare, print and distribute a basic information sheet or flyer
30 announcing and describing the candidacy.

31 3. Maine Democracy Fund preprimary credits. As soon as a
32 candidate has filed and been certified pursuant to section 335,
33 354 or 371, whichever applies, the Secretary of State shall issue
34 a fund credit to the candidate or the treasurer of the
35 candidate's committee. The commission shall adopt rules
36 regulating the method and administration of distribution of fund
37 money to certified candidates. The commission may consider, but
38 is not limited to, the debit card system. A candidate must be
39 credited with the following amounts from the fund:

40 A. A candidate for Governor with 4 or fewer primary
41 opponents, \$300,000;

42 B. A candidate for Governor with 5 or more primary
43 opponents, an amount equal to the quotient of \$1,500,000
44 divided by the total number of primary candidates;

2 C. A candidate for Governor without a primary opponent,
\$100,000;

4 D. A candidate for State Senator with a primary opponent,
\$10,000;

6 E. A candidate for State Senator without a primary
8 opponent, \$1,250;

10 F. A candidate for State Representative with a primary
12 opponent, \$4,000; and

14 G. A candidate for State Representative without a primary
opponent, \$500.

16 **4. Postprimary procedures and credits.** As soon as official
18 primary election results are released:

20 A. Defeated primary candidates shall conclude their
accounts according to rules and schedules adopted by the
22 commission;

24 B. The commission shall publish a list of all nominees and
qualified independents; and

26 C. The commission shall credit the accounts of official
28 candidates participating in the fund as follows:

30 (1) A candidate for Governor with a general election
opponent, \$400,000;

32 (2) A candidate for Governor without a general
34 election opponent, \$100,000;

36 (3) A candidate for State Senator with a general
election opponent, \$12,000;

38 (4) A candidate for State Senator without a general
40 election opponent, \$1,250;

42 (5) A candidate for State Representative with a
general election opponent, \$4,500; and

44 (6) A candidate for State Representative without a
46 general election opponent, \$500.

48 **5. Matching credits.** If the report of a nonparticipating
candidate filed under section 1017 shows that the sum of the
nonparticipating candidate's expenditures or funds raised or
50 loaned, whichever is greater, exceeds the amount under subsection

3 or 4 credited to opposing candidates participating in the fund,
the commission shall immediately credit the opposing candidates'
fund accounts with an additional amount equivalent to the
reported excess. These matching credits must be capped at 3
times the credited amount originally provided under subsection 3
or 4, whichever is applicable.

6. Access to candidate expenditure data base. The
commission shall:

A. Maintain an expenditure data base for each candidate and
for the fund as a whole;

B. Ensure access to the campaign finance data by candidates
and their committee treasurers; and

C. Establish 2 dates before the primary election and 2
additional dates before the general election on which it
will print out all candidate accounts and make them
available for public examination.

7. Expenditures authorized. The commission shall provide a
list of permitted campaign expenditures. This list must include
at a minimum the following permitted expenditures, when made for
the purpose of advancing a candidate's election: campaign
advertising such as bumper stickers, buttons, banners, lawn signs
and media advertisements; public opinion polls; campaign-related
mailings such as brochures and position papers; telephone calls;
postage; office supplies; travel; rent and other overhead for
campaign headquarters; and salaries and fees for campaign staff
and consultants and food and drink for campaign workers.

No more than 5% of the total campaign credit may be provided as a
petty cash reserve for reimbursement to the candidate or the
candidate's staff or volunteers for their out-of-pocket
expenses. That amount may be received by direct application to
the commission with receipts, invoices or other appropriate
verification. The commission shall adopt rules for the
distribution of petty cash reserves.

8. In-kind contributions. The candidate or the candidate's
committee treasurer shall report to the commission before the
date of the primary election all in-kind materials carried over
from previous campaigns. The commission shall adopt rules for
establishing the fair market value of this material and providing
for an appropriate deduction from the candidate's account. All
other in-kind contributions are prohibited.

9. Volunteer services. The commission shall provide by
rule a list of volunteer services, including, but not limited to,

2 sign-painting and erection of signs, door-to-door or telephone
3 canvassing and envelope stuffing, that need not be reported.

4 **10. Soft money expenditures.** An individual, a group of
5 individuals or a committee may not make any expenditures or
6 engage in any activities that would qualify as campaign
7 expenditures if those expenditures were made or those activities
8 engaged in by a candidate participating in the fund or the
9 candidate's committee. Notwithstanding the general prohibition
10 of this subsection, the committees of qualified political parties
11 may conduct group mailings and other candidate promotions. Any
12 political party committee activities under this subsection
13 promoting candidates for legislative office must promote at least
14 5 candidates for State Representative or 5 candidates for State
15 Senator, and group mailings must be mailed to the party
16 constituency in at least 5 of the respective districts.

17 **§1074. Study report**

18 Within 6 months after their appointment under section 1002,
19 the commission shall prepare a report recommending additional
20 provisions regarding methods of audit and accountability and, in
21 consultation with the Attorney General, additional sanctions and
22 measures to support the constitutionality of this subchapter.

23 The commission shall submit its reports, together with any
24 implementing legislation, to the Legislature, and if the
25 Legislature is not scheduled to meet within 45 days of the
26 submission of the report, the commission shall request the
27 Governor to convene a special session pursuant to the
28 Constitution of Maine, Article V, Part First, Section 13. If the
29 Governor declines to call the Legislature into special session,
30 the commission shall request the President of the Senate and the
31 Speaker of the House of Representatives to convene the
32 Legislature pursuant to the Constitution of Maine Article IV,
33 Part Third, Section 1.

34 **Sec. 25. Maine Revised Statutes amended; revision clause.**
35 Wherever in the Maine Revised Statutes the words "Commission on
36 Governmental Ethics and Election Practices" appear or reference
37 is made to those words, they are amended to read and mean the
38 "Maine Elections and Ethics Commission," and the Revisor of
39 Statutes shall implement this revision when updating, publishing
40 or republishing the statutes.

41 **Sec. 26. Commission membership; transition.** Each member of the
42 Commission on Governmental Ethics and Election Practices serving
43 on the effective date of this Act shall continue in office and
44 carry out that member's functions until each new member of the
45 Maine Elections and Ethics Commission is in place.

2 8. The bill requires the Maine Elections and Ethics
Commission to provide recommendations for additional provisions
concerning audits, accountability and sanctions to be presented
4 to the Legislature for adoption or disapproval.