

MAINE STATE LEGISLATURE

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PL 85

L.D. 1444

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LEGAL AND VETERANS AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1029, L.D. 1444, Bill, "An Act to Strengthen the Governmental Ethics and Campaign Reports and Finances Laws"

Amend the bill by inserting after the title and before the enacting clause the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.'

Further amend the bill by inserting after the enacting clause the following:

'Sec. 1. 21-A MRSA §1001, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Election. "Election" means any primary, general or special election for state or county or municipal offices as defined in Title 30-A, section 2502, subsection 1.

Sec. 2. 21-A MRSA §1011, as enacted by PL 1985, c. 161, §6, is amended to read:

§1011. Application

This subchapter applies to candidates for all state and county offices and to campaigns for their nomination and

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election. This subchapter also applies to candidates for federal offices for the purposes of section 1017, subsection 1.

Candidates for municipal office as defined in Title 30-A, section 2502, subsection 1 and referenda as defined in Title 30-A, section 2502, subsection 2 are governed by this subchapter, with the following provisions:

1. Role of the municipal clerk; commission. For candidates for municipal office, the municipal clerk is responsible for any duty assigned to the commission in this subchapter related to the registration of candidates, receipt of reports and distribution of information or forms, unless otherwise provided. The commission retains the sole authority to prescribe the content of all reporting forms.

2. Exemptions. Exemptions for municipal candidates from the reporting requirements of this subchapter are governed by this subsection.

A. At the time a municipal candidate registers under section 1013-A, the candidate may notify the municipal clerk in writing that the candidate will not accept contributions, make expenditures or incur financial obligations associated with that person's candidacy. A candidate who provides this written notice is not required to appoint a treasurer or to meet the filing requirements of this section as long as the candidate complies with the commitment.

B. The notice provided to the municipal clerk in paragraph A may be revoked. A written revocation must be presented to the municipal clerk before the candidate may accept contributions, make expenditures or incur obligations associated with that person's candidacy. A candidate who has filed a notice with the municipal clerk under paragraph A and accepts contributions, makes expenditures or incurs obligations associated with that person's candidacy prior to filing a revocation may be assessed a penalty of \$10 for each business day that the revocation is late, up to a maximum of \$500. This penalty may be imposed in addition to the penalties assessed under other sections of this Title.

Sec. 3. 21-A MRSA §1012, sub-§2, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. Includes:

- (1) 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

state ~~or~~, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, expressed ~~express~~ or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) Funds received by a candidate or a political committee which that are transferred to the candidate or committee from another political committee or other source; and

(4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons which that are provided to the candidate or political committee without charge for any such purpose; and

Sec. 4. 21-A MRSA §1013-A, sub-§1, ¶¶A and B, as repealed and replaced by PL 1991, c. 839, §4 and affected by §34, are amended to read:

A. No later than 10 days after becoming a candidate, and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office or a candidate for municipal office who has not filed a written notice in accordance with section 1011, subsection 2-A shall appoint a treasurer. The candidate may serve as treasurer. The candidate may have only one treasurer, who is responsible for the filing of campaign finance reports under this chapter. A candidate shall register the candidate's name and address and the name and address of the treasurer appointed under this section no later than 10 days after the appointment of the treasurer. A candidate may accept contributions personally or make or authorize expenditures personally, as long as the candidate reports all contributions and expenditures to the treasurer. The treasurer shall make a consolidated report of all income and expenditures and provide this report to the commission.

(1) A candidate may appoint a deputy treasurer to act in the absence of the treasurer. The deputy treasurer, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. When a treasurer dies or resigns, the deputy treasurer may not assume the position of treasurer unless the

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candidate appoints the deputy treasurer to the position of treasurer. The candidate shall report the name and address of the deputy treasurer to the commission no later than 10 days after the deputy treasurer has been appointed.

B. A candidate may authorize one political committee to promote the candidate's election. No later than 10 days after appointing a political committee, and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county or municipal office shall appoint a treasurer of the political committee. The treasurer of the political committee is responsible for filing campaign finance reports under this chapter. No later than 10 days after appointing a political committee, the candidate shall register with the commission the following information regarding the political committee:

- (1) The name of the committee;
- (2) The name and address of the committee's treasurer;
- (3) The name of the candidate who authorized the committee; and
- (4) The names and addresses of the committee's officers.

Sec. 5. 21-A MRSA §1013-A, sub-§3, as amended by PL 1989, c. 833, §1, is further amended to read:

3. Party committees. The state, district, and county and municipal committees of parties shall submit to the commission the names and addresses of all their officers and of their treasurers and the name and address of the principal paid employee, if any, within 30 days after the appointment, election or hiring of these persons. Municipal committees must file copies of the same information with the commission and the municipal clerk. District, county and municipal committees which that provide their state party committees with the information required by this subsection to be submitted to the commission shall ~~be deemed to have submitted that information to the commission~~ have met that requirement. No later than the 2nd Monday in April of each year in which a general election is scheduled, the state committee of a party shall submit a consolidated report, including the information required under this subsection, for the district, county and municipal committees of that party.'

Further amend the bill by inserting after section 1 the following:

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'Sec. 2. 21-A MRSA §1017, sub-§3-A, as amended by PL 1991, c. 839, §15 and affected by §34, is further amended by amending the first paragraph to read:

3-A. Other candidates. A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the commission and municipal candidates shall file reports with the municipal clerk as follows. Once the first required report has been filed, each subsequent report must cover the period from the completion date of the prior report filed.'

Further amend the bill in section 2 in subsection 7-A by striking out all of paragraph A (page 1, lines 23 to 35 in L.D.) and inserting in its place the following:

'A. A candidate may, at the time the candidate registers under section 1013-A, notify the commission that the candidate and the candidate's agents, if any, will not personally accept contributions, make expenditures or incur obligations associated with that candidate's candidacy. The notification must be sworn and notarized. A candidate who provides this notice to the commission is not required to appoint a treasurer and is not subject to the filing requirements of this subchapter if the statement is true.'

Further amend the bill by inserting after section 3 the following:

'Sec. 4. 21-A MRSA §1017-A, sub-§8 is enacted to read:

8. Municipal elections. When a party committee makes contributions or expenditures on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.

Sec. 5. 21-A MRSA §1018, sub-§2, as amended by PL 1989, c. 833, §8 and affected by §21, is further amended to read:

2. Party committee. When a state, district, or county ~~or~~ municipal committee of a party makes contributions or expenditures, aggregating in excess of \$50 in an election, ~~that~~ and expressly ~~advocate~~ advocating the election or defeat of a candidate or candidates, other than by contribution to a candidate or a candidate's authorized political committee, the party committee making the contribution or expenditure shall file a report with the commission. Municipal committees must file copies of the same information with the commission and the municipal clerk.

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2 A. Reports required by this subsection in relation to a
3 candidate for Governor must be filed on the same dates on
4 which reports for gubernatorial candidates are filed under
5 section 1017, subsection 2. Reports required by this
6 subsection in relation to a candidate for state or county
7 or municipal office, other than Governor, must be filed on
8 the same dates on which reports for these candidates are
9 filed under section 1017, subsection 3-A.

10 B. This report must contain an itemized account of each
11 such contribution or expenditure aggregating in excess of
12 \$50 in any election, the date and purpose of each and the
13 name of each payee or creditor. Total contributions or
14 expenditures of less than \$500 in any election need not be
15 itemized.

16 C. Reports required by this subsection must be on forms
17 prescribed, prepared and sent by the commission to the
18 candidate at least 7 days before the filing date for the
19 report. Persons filing these reports may use additional
20 pages if necessary, but the pages must be the same size as
21 the pages of the form. Although the commission mails the
22 forms for required reports, failure to receive forms by mail
23 does not excuse committees, candidates and other persons who
24 must file reports from otherwise obtaining the forms.

25 **Sec. 6. 21-A MRSA §1019, first ¶,** as enacted by PL 1985, c.
26 161, §6, is amended to read:

27 Each person, other than a candidate, a candidate's
28 authorized political committee or a party committee, who makes
29 contributions or expenditures, aggregating in excess of \$50 in an
30 election, ~~that~~ and expressly ~~advocate~~ advocating the election or
31 defeat of a clearly identified candidate, other than by
32 contribution to a candidate or a candidate's authorized political
33 committee, shall file a report with the commission. In the case
34 of a municipal election, a copy of the same information must be
35 filed with the clerk in that candidate's municipality.

36 **Sec. 7. 21-A MRSA §1019, sub-§1,** as amended by PL 1989, c.
37 833, §9 and affected by §21, is further amended to read:

38 1. **Filing dates.** Reports required by this section in
39 relation to a candidate for Governor must be filed on the same
40 dates on which reports for gubernatorial candidates are filed
41 under section 1017, subsection 2. Reports required by this
42 section in relation to a candidate for state or county or
43 municipal office, other than the office of Governor, must be
44 filed on the same dates on which reports for those candidates are
45 filed under section 1017, subsection 3-A.'

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2 Further amend the bill in section 5 in that part designated
"§1020-A." in subsection 1 in the 4th line (page 2, line 23 in
4 L.D.) by striking out the following: "must" and inserting in its
place the following: 'may'

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8 Further amend the bill in section 5 in that part designated
"§1020-A." in subsection 2 in the 5th line (page 2, line 31 in
L.D.) by striking out the following: "for the requirement" and
10 inserting in its place the following: 'as provided'

12 Further amend the bill in section 5 in that part designated
"§1020-A." in subsection 2 by inserting after subsection 2 the
14 following:

16 '3. Municipal campaign finance reports. Municipal campaign
finance reports must be filed, subject to all the provisions of
18 this subchapter, with the municipal clerk on forms prescribed by
the Commission on Governmental Ethics and Election Practices.
20 The municipal clerk shall send any notice of letters required by
paragraph D and shall notify the commission of any late reports
22 subject to a penalty.'

24 Further amend the bill in section 5 in that part designated
"§1020-A." by striking out all of subsection 4 (page 3, lines 24
26 to 46 in L.D.) and inserting in its place the following:

28 '4. Maximum penalties. Penalties assessed under this
subchapter may not exceed:

30 A. Five thousand dollars for reports required under section
32 1017, subsection 2, paragraphs B, C, D, E or H; section
1017, subsection 3-A, paragraphs B, C, D or F; section 1017,
34 subsection 4; and section 1019;

36 B. Five thousand dollars for state party committee reports
required under section 1017-A, subsection 4, paragraphs A
38 and C and section 1018, subsection 2;

40 C. One thousand dollars for reports required under section
1017, subsection 2, paragraphs A and F; section 1017,
42 subsection 3-A, paragraphs A and E; and state party
committee reports required to be filed under section 1017-A,
44 subsection 4, paragraph B; or

46 D. Five hundred dollars for municipal, district and county
committees for reports required under section 1017-A,
48 subsection 4, paragraphs A, B and C and section 1018,
subsection 2.'
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2 Further amend the bill in section 5 in that part designated
3 "~~§1020-A.~~" in subsection 5 in the 8th line (page 4, line 5 in
4 L.D.) by striking out the following: "A request for determination
5 must be made within 14" and inserting in its place the following:
6 'Any request for a determination must be made within 10'

8 Further amend the bill in section 5 in that part designated
9 "~~§1020-A.~~" in subsection 5 in the 9th line (page 4, line 6 in
10 L.D.) by striking out the following: "14-day" and inserting in
11 its place the following: '10-day'

12 Further amend the bill in section 5 in that part designated
13 "~~§1020-A.~~" in subsection 5 in the 13th line (page 4, line 10 in
14 L.D.) by striking out the following: "14-day" and inserting in
15 its place the following: '10-day'

16 Further amend the bill in section 5 in that part designated
17 "~~§1020-A.~~" in subsection 9 in the 11th line (page 4, line 50 in
18 L.D.) by striking out the following: "the person who has failed
19 to pay the full amount of a" and inserting in its place the
20 following: 'any person who has failed to pay the full amount of
21 any'

22 Further amend the bill in section 5 in that part designated
23 "~~§1020-A.~~" by renumbering the subsections to read consecutively.

24 Further amend the bill by inserting after section 5 the
25 following:

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30 'Sec. 6. 21-A MRSA §1051, first ¶, as amended by PL 1991, c.
31 839, §26 and affected by §33, is further amended to read:

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33 This subchapter applies to the activities of political
34 action committees organized in and outside this State that accept
35 contributions, incur obligations or make expenditures in an
36 aggregate amount in excess of \$50 in any one calendar year for
37 the election of state ~~or~~ county or municipal officers, or for
38 the support or defeat of any campaign, as defined in this
39 subchapter.

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42 Sec. 7. 21-A MRSA §1052, sub-§1, ¶F, as enacted by PL 1989, c.
43 504, §§22 and 31, is amended to read:

44 F. Any county or municipal referendum.'

45 Further amend the bill by inserting after section 6 the
46 following:

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2 'Sec. 7. 21-A MRSA §1058, as amended by PL 1993, c. 715, §4,
is further amended to read:

4 **§1058. Reports; qualifications for filing**

6 A political action committee that is registered with the
8 commission or that accepts contributions or incurs obligations in
an aggregate amount in excess of \$50 on any one or more campaigns
10 for the office of Governor, for state or county office or for the
support or defeat of a referendum or initiated petition shall
12 file a report on its activities in that campaign with the
commission on forms as prescribed by the commission. A political
14 action committee organized in this State required under this
section to file a report shall file the report for each filing
16 period under section 1059. A political action committee
organized outside this State shall file with the Commission on
18 Governmental Ethics and Election Practices of this State a copy
of the report that the political action committee is required to
20 file in the state in which the political action committee is
organized. The political action committee shall file the copy
22 only if it has expended funds or received contributions or made
expenditures in this State. The copy of the report must be filed
24 in accordance with the schedule of filing in the state where it
is organized. If contributions or expenditures are made relating
26 to a municipal office or referendum, a copy of the report must be
filed with the clerk in the subject municipality. Any person or
28 organization organized to oppose a question to be voted on by the
electorate at referendum shall report, within 10 days following
30 the drafting of the question by the Secretary of State and prior
to the distribution of any petitions for voter signatures
32 pursuant to chapter 11, to the commission as required in this
section and sections 1059 and 1060.'

34 Further amend the bill in section 8 in that part designated
"§1062-A." in subsection 2 in the 5th line (page 5, line 32 in
36 L.D.) by striking out the following: "for the requirements of"
and inserting in its place the following: 'as provided in'
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40 Further amend the bill in section 8 in that part designated
"§1062-A." in subsection 3 by striking out all of the 2nd blocked
42 paragraph (page 6, lines 10 to 13 in L.D.) and inserting in its
place the following:

44 'Violations accumulate on reports with filing deadlines in a
2-year period that begins on January 1st of each even-numbered
46 calendar year. Waiver of a penalty does not nullify the finding
of a violation.'
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50 Further amend the bill in section 8 in that part designated
"§1062-A." in subsection 4 in the 3rd line (page 6, line 26 in

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2 L.D.) by striking out the following: "\$1,000" and inserting in its place the following: '\$5,000'

4 Further amend the bill in section 8 in that part designated "S1062-A." in subsection 5 in the 9th line (page 6, line 37 in L.D.) by striking out the following: "14" and inserting in its place the following: '10'

8 Further amend the bill in section 8 in that part designated "S1062-A." in subsection 5 in the 10th line (page 6, line 38 in L.D.) by striking out the following: "14-day" and inserting in its place the following: '10-day'

14 Further amend the bill in section 8 in that part designated "S1062-A." in subsection 5 in the 13th line (page 6, line 41 in L.D.) by striking out the following: "14-day" and inserting in its place the following: '10-day'

18 Further amend the bill in section 8 in that part designated "S1062-A." in subsection 6 in the first paragraph in the 4th line (page 7, line 2 in L.D.) by striking out the following: "treasurer" and inserting in its place the following: 'the treasurer'

24 Further amend the bill in section 8 in that part designated "S1062-A." in subsection 7 in the first line (page 7, line 12 in L.D.) by striking out the following: "candidates" and inserting in its place the following: 'committees'

30 Further amend the bill in section 8 in that part designated "S1062-A." by striking out all of subsection 9 and inserting in its place the following:

34 '9. Enforcement. The Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving notice of that penalty from the commission. The Secretary of State has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the political action committee and its treasurer. Thirty days after receiving notice of penalty, the Secretary of State shall report to the Attorney General the name of any political action committee, along with the name of its treasurer, that has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.'

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Further amend the bill by striking out all of section 9 and inserting in its place the following:

'Sec. 9. 30-A MRSA §2502, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§2502. Campaign reports in municipal elections

1. Reports by candidates. ~~Title 21-A, sections 1001 to 1020 do not apply to a candidate for municipal office in a town.~~ A candidate for municipal office of a town or city with a population of 10,000 15,000 or more is governed by Title 21-A, sections 1001 to 1020 1020-A, except that notices of appointment of a treasurer and campaign reports must be filed with the municipal clerk instead of the Secretary of State. A town or city with a population of less than 15,000 may choose to be governed by Title 21-A, sections 1001 to 1020-A by vote of its legislative body at least 90 days before an election for office. A town or city that votes to adopt those provisions may revoke that decision, but it must do so at least 90 days before an election subject to those sections.

A. Notwithstanding Title 17-A, section 4-A, a candidate who fails to file a notice or report, as required by this section, is guilty of a Class E crime and shall may be punished by a fine of \$5 for every day the candidate is in default or by imprisonment for not more than 30 days, or both.

2. Municipal referenda campaigns. ~~Title 21-A, chapter 13, subchapter IV, does not apply to municipal referenda campaigns.~~ Municipal referenda campaigns in towns or cities with a population of 15,000 or more are governed by Title 21-A, chapter 13, subchapter IV. Copies of the registrations and reports of political action committees must be filed with the municipal clerk. A town or city with a population of less than 15,000 may choose to be governed by Title 21-A, chapter 13, subchapter IV by vote of its legislative body at least 90 days before a referendum election. A town or city that votes to adopt those provisions may revoke that decision, but it must do so at least 90 days before an election subject to that subchapter.

Sec. 10. PL 1993, c. 583, §3, is amended to read:

Sec. 3. Study by the Commission on Governmental Ethics and Election Practices; jurisdiction. The Commission on Governmental Ethics and Election Practices shall review its current duties prescribed by law and shall identify issues that the commission has been asked to investigate and has not clearly had the authority to investigate. The commission shall make

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recommendations, along with any proposed legislation, to clarify and, if necessary, to expand the commission's jurisdiction and duties to the joint standing committee of the Legislature having jurisdiction over legal affairs no later than ~~January 30, 1995~~ March 30, 1996.

Sec. 11. Retroactivity. That section of this Act that amends Public Law 1993, chapter 583, section 3 applies retroactively to January 30, 1995.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

This bill requires clerks of municipalities with a population of 15,000 or more to file certain required reports received from political action committees. The additional costs of this state mandate, which are expected to be minor, are to monitor the required notices and campaign reports. Pursuant to the Mandate Preamble, the 2/3 vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional local costs.

The additional costs related to extending the deadline for the Commission on Governmental Ethics and Election Practices to report to the Legislature on its current statutory duties and potential issues to be investigated can be absorbed by the commission utilizing existing budgeted resources.

This bill may increase prosecutions for Class E crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.22 per day per prisoner. These costs are not reimbursed by the State. The number of prosecutions that may result in jail sentences and the resulting costs to the county jail system are expected to be insignificant.

In addition to the additional criminal prosecutions, this bill may also increase prosecutions for civil violations. The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may increase General Fund revenue by minor amounts.

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2 Revising the penalties for campaign finance reporting law
violations will result in insignificant increases of General Fund
4 revenue from the collection of fines.'

6 STATEMENT OF FACT

8 This amendment makes grammatical changes to the bill;
reduces the amount of time permitted for filing a request for a
10 determination by the commission from 14 days to 10 days;
increases the maximum penalty for a political action committee
12 from \$1,000 to \$5,000 for certain violations; and corrects an
error in a headnote by changing the word "candidates" to
14 "committees."

16 The amendment also adds provisions to the bill regarding
campaign finance reporting for municipal candidates. Current law
18 makes candidates for municipal office and municipal referenda in
a town or city of 10,000 or more subject to the same campaign
20 reporting laws as state and county offices. The amendment
increases the population threshold to 15,000 but permits
22 municipalities of less than 15,000 to adopt these provisions if
they vote to do so. It also establishes that for most municipal
24 reporting the municipal clerk is responsible for the functions
assigned to the Commission on Governmental Ethics and Election
26 Practices. The commission retains its sole authority to
prescribe the content and format of the reporting forms.

28 Finally, the amendment extends the deadline for the
30 Commission on Governmental Ethics and Election Practices to
report to the legislature from January 30, 1995 to March 30,
32 1996, and it adds a fiscal note to the bill.