

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 910

S.P. 306

In Senate, February 20, 2003

### An Act To Promote Candidate Accountability in Elections

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator DAMON of Hancock.

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

4 **Sec. 1. 1 MRSA §1002, sub-§5**, as amended by PL 2001, c. 470,  
§3, is further amended to read:

6 **5. Employees.** The commission shall employ an administrative  
7 director and such other assistance as may be necessary to carry  
8 out its duties. The commission also shall retain a general  
9 counsel as an employee of the commission. The general counsel  
10 may not hold any other state office or otherwise be employed by  
11 the State. ~~Compensation paid to the commission's general counsel~~  
12 ~~must be paid using funds from the Maine Clean Election Fund~~  
13 ~~established by Title 21-A, section 1124.~~ The commission shall  
14 select the administrative director and general counsel by an  
affirmative vote of at least 4 commission members.

16 **Sec. 2. 1 MRSA §1008, sub-§2**, as amended by PL 2001, c. 430,  
18 §4, is further amended to read:

20 **2. Election practices.** To administer and investigate any  
21 violations of the requirements for campaign reports and campaign  
22 financing, ~~including the provisions of the Maine Clean Election~~  
23 ~~Act and the Maine Clean Election Fund;~~

24 **Sec. 3. 1 MRSA §1008, sub-§5**, as enacted by IB 1995, c. 1, §6,  
26 is repealed.

28 **Sec. 4. 21-A MRSA §1013-A, sub-§1, ¶C**, as amended by PL 1999,  
c. 729, §1, is repealed.

30 **Sec. 5. 21-A MRSA §1014**, as amended by PL 1995, c. 483, §6,  
32 is further amended to read:

34 **§1014. Publication or distribution of political statements**

36 **1. Authorized by candidate.** Whenever a person makes an  
37 expenditure to finance a communication expressly advocating the  
38 election or defeat of a clearly identified candidate through  
39 broadcasting stations, newspapers, magazines, outdoor advertising  
40 facilities, direct mails or other similar types of general public  
41 political advertising or through flyers, handbills, bumper  
42 stickers and other nonperiodical publications, ~~the communication,~~  
43 ~~if authorized by a candidate, a candidate's authorized political~~  
44 ~~committee or their agents, the expenditure must be authorized by~~  
45 a candidate pursuant to section 1015, subsection 10. The  
46 communication must clearly and conspicuously state that the  
47 communication has been so authorized and must clearly state the  
48 name and address of the person who made or financed the  
49 expenditure for the communication. The following forms of  
50 political communication do not require the name and address of

2 the person who made or authorized the expenditure for the  
communication because the name or address would be so small as to  
4 be illegible or infeasible: ashtrays, badges and badge holders,  
balloons, campaign buttons, clothing, coasters, combs, emery  
6 boards, envelopes, erasers, glasses, key rings, letter openers,  
matchbooks, nail files, noisemakers, paper and plastic cups,  
8 pencils, pens, plastic tableware, 12-inch or shorter rulers,  
swizzle sticks, tickets to fund-raisers and similar items  
10 determined by the commission to be too small and unnecessary for  
the disclosures required by this section.

12 **2. Not authorized by candidate.** If the communication  
described in subsection 1 is not authorized by a candidate, a  
14 ~~candidate's authorized political committee or their agents, the~~  
~~communication must clearly and conspicuously state that the~~  
16 ~~communication is not authorized by any candidate and state the~~  
~~name and address of the person who made or financed the~~  
18 ~~expenditure for the communication~~ the person, committee or  
organization responsible for the communication is subject to the  
20 provisions of section 1015, subsection 12.

22 **3. Broadcasting prohibited without disclosure.** No A person  
operating a broadcasting station within this State may not  
24 broadcast any communication, as described in subsections 1 and 2,  
without an oral or written visual announcement of the name of the  
26 person who made or financed the expenditure for the communication.

28 **3-A. In-kind contributions of printed materials.** A  
candidate, political committee or political action committee  
30 shall report on the campaign finance report as a contribution to  
the candidate, political committee or political action committee  
32 any contributions of in-kind printed materials to be used in the  
support of a candidate or in the support or defeat of a cause to  
34 be voted upon at referendum. Any in-kind contributions of  
printed materials used or distributed by a candidate, political  
36 committee or political action committee must include the name or  
title of that candidate, political committee or political action  
38 committee as the authorizing agent for the printing and  
distribution of the in-kind contribution.

40  
42 The use or distribution of in-kind printed materials contributed  
to a candidate, political committee or political action committee  
44 must be reported as an expenditure on the campaign finance report  
of that candidate, political committee or political action  
committee.

46  
48 **4. Enforcement.** An Except for subsections 1 and 2, an  
expenditure, communication or broadcast made within 10 days  
before the election to which it relates that results in a  
50 violation of this section may result in a civil forfeiture of no

2 more than \$200. An expenditure, communication or broadcast made  
3 more than 10 days before the election that results in a violation  
4 of this section may result in a civil forfeiture of no more than  
5 \$100 if the violation is not corrected within 10 days after the  
6 candidate or other person who committed the violation receives  
7 notification of the violation from the commission. Enforcement  
8 and collection procedures must be in accordance with section  
9 1020-A. An expenditure, communication or broadcast that results  
10 in a violation of subsection 1 or 2 is subject to the provisions  
11 of section 1015, subsection 12.

12 **Sec. 6. 21-A MRSA §1015**, as amended by PL 1999, c. 729, §§2  
13 and 3, is further amended to read:

14 **§1015. Limitations on contributions and expenditures**

15 **1. Individuals.** An individual may not make contributions  
16 to a candidate in support of the candidacy of one person  
17 aggregating more than ~~\$500 in any election for a gubernatorial~~  
18 ~~candidate or more than~~ \$250 in any election ~~for any other~~  
19 ~~candidate.~~ This limitation does not apply to contributions in  
20 support of a candidate by that candidate or that candidate's  
21 spouse.

22 **2. Committees; corporations; associations.** A political  
23 committee, other committee, corporation or association may not  
24 make contributions to a candidate in support of the candidacy of  
25 one person aggregating more than ~~\$500 in any election for a~~  
26 ~~gubernatorial candidate or more than~~ \$250 in any election ~~for any~~  
27 ~~other candidate.~~

28 **3. Aggregate contributions.** ~~No~~ An individual may not make  
29 contributions to candidates aggregating more than \$25,000 in any  
30 calendar year. This limitation does not apply to contributions in  
31 support of a candidate by that candidate or ~~his~~ that candidate's  
32 spouse.

33 **4. Political committees; intermediaries.** For the purpose of  
34 the limitations imposed by this section, contributions made to  
35 any political committee authorized by a candidate to accept  
36 contributions on the candidate's behalf are considered to be  
37 contributions made to that candidate.

38 For the purposes of the limitations imposed by this section, all  
39 contributions made by a person, either directly or indirectly, on  
40 behalf of a particular candidate, including contributions ~~which~~  
41 that are in any way earmarked or otherwise directed through an  
42 intermediary or conduit to the candidate, are considered to be  
43 contributions from that person to the candidate. The intermediary  
44 or conduit shall report the original source and the intended

2 recipient of the contribution to the commission and to the  
intended recipient.

4 **5. Other contributions and expenditures.** Any expenditure  
made by any person ~~in cooperation, consultation or concert with,~~  
6 ~~or at the request or suggestion of, a candidate, a candidate's~~  
political committee or their agents on behalf of a candidate is  
8 considered to be a contribution to that candidate.

10 The financing by any person of the dissemination, distribution or  
republication, in whole or in part, of any broadcast or any  
12 written or other campaign materials ~~prepared by the candidate,~~  
~~the candidate's political committee or committees or their~~  
14 authorized agents on behalf of a candidate is considered to be a  
contribution to that candidate.

16 **6. Prohibited expenditures.** A candidate, a treasurer, a  
18 political committee, a party or party committee, a person  
required to file a report under this subchapter or their  
20 authorized agents may not make any expenditures for liquor to be  
distributed to or consumed by voters while the polls are open on  
22 election day.

24 ~~**7. Voluntary limitations on political expenditures.** A~~  
~~candidate may voluntarily agree to limit the total expenditures~~  
26 ~~made on behalf of that candidate's campaign as specified in~~  
~~section 1013-A, subsection 1, paragraph C and subsections 8 and 9.~~

28 **8. Political expenditure limitation amounts.** Total  
30 expenditures from any source in any election for legislative  
office by a candidate ~~who voluntarily agrees to limit campaign~~  
32 ~~expenditures as provided in subsection 7~~ or on behalf of a  
candidate are as follows:

- 34 A. For State Senator, \$25,000 \$50,000; and  
36 B. For State Representative, \$5,000 \$15,000; and.  
38 C. ~~For State Senator or State Representative as a candidate~~  
40 ~~certified under the Maine Clean Election Act, to the extent~~  
~~authorized by that Act.~~

42 Expenditure limits are per election and may not be carried  
44 forward from one election to another. For calculation and  
reporting purposes, the reporting periods established in section  
46 1017 apply.

48 For the purposes of this subsection, "total expenditures" means  
the sum of all expenditures made to influence a single election

2 that are made by a candidate or made on the candidate's behalf by  
3 any person, committee or organization.

4 ~~9. **Publication of list.** The commission shall publish a~~  
5 ~~list of the candidates for State Representative and State Senator~~  
6 ~~who have agreed to voluntarily limit total expenditures for their~~  
7 ~~campaigns as provided in section 1013-A, subsection 1, paragraph~~  
8 ~~C.~~

9 ~~For the purposes of subsections 7 and 8 and this subsection,~~  
10 ~~"total expenditures" means the sum of all expenditures made to~~  
11 ~~influence a single election that are made by a candidate or made~~  
12 ~~on the candidate's behalf by the candidate's political committee~~  
13 ~~or committees, the candidate's party or the candidate's immediate~~  
14 ~~family.~~

15  
16 10. **Authorization by candidate.** An expenditure made on  
17 behalf of a candidate by a person other than the candidate or the  
18 candidate's authorized representative first must be authorized by  
19 the candidate in an affidavit signed by the candidate that  
20 acknowledges the purpose and amount of the expenditure. The  
21 affidavit must be filed with the commission within 24 hours of  
22 the affidavit's execution.

23  
24 11. **Definition.** For purposes of this section, "on behalf  
25 of a candidate" means any expenditure, communication or  
26 publication that involves the candidate's name or district or  
27 office sought or the candidate's opponent's name or district or  
28 office sought.

29  
30 12. **Violations.** A person who violates subsection 8 or  
31 section 1014, subsection 2 is subject to a fine of \$50 for every  
32 dollar spent in excess of the maximum expenditure allowed and a  
33 person who fails to seek a candidate's affidavit under subsection  
34 10 is subject to a fine of \$5,000 for the first offense and  
35 \$15,000 for the 2nd offense and subsequent offenses. If a person  
36 violates the provisions of subsection 10 for a 2nd time and is a  
37 political action committee as defined in section 1052, subsection  
38 5, the right of the political action committee to operate in the  
39 State is subject to revocation.

40  
41 **Sec. 7. 21-A MRSA §1017, sub-§3-B,** as amended by PL 2001, c.  
42 589, §§1 and 2, is repealed.

43  
44 **Sec. 8. 21-A MRSA §1019, sub-§1,** as repealed and replaced by  
45 IB 1995, c. 1, §14, is amended to read:

46  
47 **1. Filing requirements.** Reports required by this section  
48 must be filed with the commission according to a reporting  
49 schedule that the commission shall establish by rule that takes  
50

2 ~~into---consideration---existing---campaign---finance---reporting~~  
~~requirements-and-matching-fund-provisions-under-chapter-14.~~

4 **Sec. 9. 21-A MRSA §1020-A, sub-§4-A**, as enacted by PL 2001, c.  
714, Pt. PP, §1 and affected by §2, is amended to read:

6  
8 **4-A. Basis for penalties.** The penalty for late filing of a  
report required under this subchapter, ~~except for accelerated~~  
~~campaign--finance--reports--required--pursuant--to--section--1017,~~  
10 ~~subsection--3-B,~~ is a percentage of the total contributions or  
expenditures for the filing period, whichever is greater,  
12 multiplied by the number of calendar days late, as follows:

14 A. For the first violation, 1%;

16 B. For the 2nd violation, 3%; and

18 C. For the 3rd and subsequent violations, 5%.

20 Any penalty of less than \$5 is waived.

22 Violations accumulate on reports with filing deadlines in a  
2-year period that begins on January 1st of each even-numbered  
24 year. Waiver of a penalty does not nullify the finding of a  
violation.

26  
28 A report required to be filed under this subchapter that is sent  
by certified or registered United States mail and postmarked at  
least 2 days before the deadline is not subject to penalty.

30  
32 A registration or report may be provisionally filed by  
transmission of a facsimile copy of the duly executed report to  
the commission, as long as an original of the same report is  
34 received by the commission within 5 calendar days thereafter.

36 ~~The penalty for late filing of an accelerated campaign finance~~  
~~report as required in section 1017, subsection 3-B may be up to~~  
38 ~~but no more than 3 times the amount by which the contributions~~  
~~received or expenditures obligated or made by the candidate~~  
40 ~~exceed the applicable Maine Clean Election Fund disbursement~~  
~~amount, per day of violation. The commission shall make a~~  
42 ~~finding of fact establishing when the report was due prior to~~  
~~imposing a penalty under this subsection. A penalty for failure~~  
44 ~~to file an accelerated campaign finance report must be made~~  
~~payable to the Maine Clean Election Fund. In assessing a penalty~~  
46 ~~for failure to file an accelerated campaign finance report, the~~  
~~commission shall consider the existence of mitigating~~  
48 ~~circumstances. For the purposes of this subsection, "mitigating~~  
~~circumstances" has the same meaning as in subsection 2.~~

50



2           **Sec. 10. 21-A MRSA §1020-A, sub-§5-A, ¶¶C and D,** as enacted by  
PL 2001, c. 714, Pt. PP, §1 and affected by §2, are amended to  
read:

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

12           D. Five hundred dollars for municipal, district and county  
committees for reports required under section 1017-A,  
subsection 4, paragraphs A, B and C and section 1018,  
subsection 2~~7~~-~~0F~~.

16           **Sec. 11. 21-A MRSA §1020-A, sub-§5-A, ¶E,** as enacted by PL  
2001, c. 714, Pt. PP, §1 and affected by §2, is repealed.

18           **Sec. 12. 21-A MRSA §1055,** as amended by PL 2001, c. 430, §9,  
is repealed and the following enacted in its place:

22           **§1055. Publication or distribution of statements**

24           **1. Approval of candidate.** When a political action  
26 committee makes an expenditure to finance a communication  
expressly advocating the election or defeat of a candidate  
28 through broadcasting stations, newspapers, magazines, outdoor  
advertising facilities, direct mails and other similar types of  
30 general public political advertising and through flyers,  
handbills, bumper stickers and other nonperiodical publications,  
32 the political action committee must first seek approval of the  
expenditure from the candidate pursuant to section 1015,  
34 subsection 10. The communication must clearly and conspicuously  
state the name and address of the political action committee that  
36 authorized, made or financed the expenditure for the  
communication and that the communication has been authorized by  
the candidate.

38           **2. Broadcasts.** A person operating a broadcasting station  
40 within this State may not broadcast any communication pursuant to  
subsection 1 without an oral or visual announcement of the name  
42 and address of the political action committee that made or  
financed the expenditure for the communication and a statement  
44 that reads: "A copy of our report is available from the  
Commission on Governmental Ethics and Election Practices."

46           **3. Violations.** An expenditure, communication or broadcast  
48 that results in a violation of subsection 1 is subject to the  
provisions of section 1015, subsection 12. An expenditure,  
50 communication or broadcast that results in a violation of

2 subsection 2 may result in a civil penalty of no more than \$200.  
3 Enforcement and collection procedures must be in accordance with  
4 section 1062-A.

5 **Sec. 13. 21-A MRSA §1056, sub-§1,** as amended by PL 2001, c.  
6 430, §10, is further amended to read:

7 **1. Aggregate expenditures.** A committee may not make  
8 contributions in support of the candidacy of one person  
9 aggregating more than \$500 ~~in any election for a gubernatorial~~  
10 ~~candidate, or~~ \$250 in any election ~~for any other candidate.~~

11 **Sec. 14. 21-A MRSA c. 14,** as amended, is repealed.

12 **Sec. 15. 36 MRSA §5286,** as enacted by IB 1995, c. 1, §18, is  
13 repealed.

14  
15  
16  
17  
18  
19  
20 **SUMMARY**

21 This bill repeals the Maine Clean Election Act. This bill  
22 limits the expenditures a candidate may make in an election and  
23 includes all expenditures made on behalf of the candidate as well  
24 as by the candidate. This bill requires the candidate to  
25 personally authorize all expenditures made on the candidate's  
26 behalf by any person, organization or committee. Fines for  
27 violations of the provisions of this bill include a \$50 fine for  
28 every dollar over the limit a candidate may spend and a fine of  
29 \$5,000 for a person, organization or committee making an  
30 expenditure without the candidate's consent, with a 2nd offense  
31 and subsequent offenses resulting in a \$15,000 fine and, if the  
32 offender is a political action committee, revocation of the right  
33 to operate in the State.  
34