

MAINE STATE LEGISLATURE

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LEGAL AND VETERANS AFFAIRS

Reported by: Minority

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STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 402, L.D. 1196, Bill, "An Act To Clarify the Definition of Independent Expenditures Under the Election Laws"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 21-A MRSA §1014-B, sub-§2, ¶D, as enacted by PL 2001, c. 416, §1, is amended to read:

D. If the call is an independent expenditure, as defined in section 1019 1019-B, that a candidate has not approved the call must be disclosed during each call.

Sec. 2. 21-A MRSA §1019, as amended by PL 2001, c. 465, §1, is repealed.

Sec. 3. 21-A MRSA §1019-B is enacted to read:

§1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an "independent expenditure":

A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that

2 expressly advocates the election or defeat of a clearly
3 identified candidate; and

4 B. Is presumed in races involving a candidate who is
5 certified as a Maine Clean Election Act candidate under
6 section 1125, subsection 5 to be any expenditure made to
7 design, produce or disseminate a communication that names or
8 depicts a clearly identified candidate and is disseminated
9 during the 30 days, including election day, before a primary
10 election; the 30 days, including election day, before a
11 general election; or during a special election until and on
12 election day.

13 2. Rebutting presumption. A person presumed under this
14 section to have made an independent expenditure may rebut the
15 presumption by filing a signed written statement with the
16 commission within 48 hours of making the expenditure stating that
17 the cost was not incurred with the intent to influence the
18 nomination, election or defeat of a candidate, supported by any
19 additional evidence the person chooses to submit. The commission
20 may gather any additional evidence it deems relevant and material
21 and must determine by a preponderance of the evidence whether the
22 cost was incurred with intent to influence the nomination,
23 election or defeat of a candidate.

24 3. Report required; content; rules. A person, party
25 committee, political committee or political action committee that
26 makes independent expenditures aggregating in excess of \$250
27 during any one candidate's election shall file a report with the
28 commission. In the case of a municipal election, a copy of the
29 same information must be filed with the municipal clerk.

30 A. A report required by this subsection must be filed with
31 the commission according to a reporting schedule that the
32 commission shall establish by rule that takes into
33 consideration existing campaign finance reporting
34 requirements and matching fund provisions under chapter 14.
35 Rules adopted pursuant to this paragraph are routine
36 technical rules as defined in Title 5, chapter 375,
37 subchapter 2-A.

38 B. A report required by this subsection must contain an
39 itemized account of each contribution or expenditure
40 aggregating in excess of \$250 in any one candidate's
41 election, the date and purpose of each contribution or
42 expenditure and the name of each payee or creditor. The
43 report must state whether the contribution or expenditure is
44 in support of or in opposition to the candidate and must
45 include, under penalty of perjury, as provided in Title
46 17-A, section 451, a statement under oath or affirmation
47 of the truth of the information provided.

2 whether the contribution or expenditure is made in
3 cooperation, consultation or concert with, or at the request
4 or suggestion of, the candidate or an authorized committee
5 or agent of the candidate.

6 C. A report required by this subsection must be on a form
7 prescribed and prepared by the commission. A person filing
8 this report may use additional pages if necessary, but the
9 pages must be the same size as the pages of the form.

10
11 **Sec. 4. 21-A MRSA §1020-A, sub-§5-A, ¶A,** as enacted by PL
12 2001, c. 714, Pt. PP, §1 and affected by §2, is amended to read:

13 A. Five thousand dollars for reports required under section
14 1017, subsection 2, ~~paragraphs~~ paragraph B, C, D, E or H;
15 section 1017, subsection 3-A, ~~paragraphs~~ paragraph B, C, D
16 or F; section 1017, subsection 4; and section ~~1019~~ 1019-B,
17 subsection 3;

18
19 **Sec. 5. 21-A MRSA §1125, sub-§9,** as enacted by IB 1995, c. 1,
20 §17, is amended to read:

21
22 **9. Matching funds.** When any campaign, finance or election
23 report shows that the sum of a candidate's expenditures or
24 obligations, or funds raised or borrowed, whichever is greater,
25 alone or in conjunction with independent expenditures reported
26 under section ~~1019~~ 1019-B, exceeds the distribution amount under
27 subsection 8, the commission shall issue immediately to any
28 opposing Maine Clean Election Act candidate an additional amount
29 equivalent to the reported excess. Matching funds are limited to
30 2 times the amount originally distributed under subsection 8,
31 paragraph A or C, whichever is applicable.'

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SUMMARY

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37 This amendment is the minority report. It replaces the
38 bill. It expands the scope of reporting for independent
39 expenditures in races involving a Maine Clean Election Act
40 candidate by stating that an expenditure made for a communication
41 that names or depicts a clearly identified candidate that is
42 made 30 days before a primary or general election is considered
43 an independent expenditure. Reporting requirements for this
44 provision would be required after \$250 is spent on such an
45 expenditure. It clarifies which expenditures trigger matching
46 funds under the Maine Clean Election Act.

FISCAL NOTE REQUIRED
(See attached)

121st Maine Legislature
Office of Fiscal and Program Review



LD 1196

An Act To Clarify the Definition of Independent Expenditures Under the
Election Laws

LR 0972(03)

Fiscal Note for Bill as Amended by Committee Amendment *B' 206*

Committee: Legal and Veterans Affairs

Fiscal Note Required: Yes

Minority Report

Fiscal Note

Potential current biennium savings - Other Special Revenue Funds

Fiscal Detail and Notes

Increasing the reporting threshold for independent expenditures, which can trigger the release of matching funds to candidates that are qualified to receive funds from the Maine Clean Elections Fund, may have the effect of lowering the disbursement of matching funds from the fund. The amount will depend on the actual independent expenditures of future candidates and can not be determined at this time.