

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1196

S.P. 402

In Senate, March 6, 2003

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

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 EDMONDS of Cumberland.
Cosponsored by Representative CLARK of Millinocket and
Senators: GAGNON of Kennebec, MAYO of Sagadahoc, ROTUNDO of Androscoggin,
TREAT of Kennebec, Representatives: CANAVAN of Waterville, KOFFMAN of Bar Harbor,
PATRICK of Rumford, RICHARDSON of Brunswick.

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

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4 **Sec. 1. 21-A MRSA §1013-A, sub-§1, ¶C**, as amended by PL 1999, c. 729, §1, is further amended to read:

6 C. No later than 10 days after becoming a candidate, as
8 defined in section 1, subsection 5, a candidate for the
10 office of State House of Representatives or Senate shall
12 file in writing a statement declaring that the candidate
14 agrees to accept voluntary limits on political expenditures
16 or that the candidate does not agree to accept voluntary
18 limits on political expenditures, as specified in section
20 1015, subsections 7 to 9, or that the candidate has filed a
22 declaration of intent to become certified as a candidate
24 under the Maine Clean Election Act.

18 The statement filed by a candidate who voluntarily agrees to
20 limit spending must state that the candidate knows the
22 voluntary expenditure limitations as set out in section
24 1015, subsection 8 and that the candidate is voluntarily
26 agreeing to limit the candidate's political expenditures and
28 those made on behalf of the candidate by the candidate's
 political committee or committees, the candidate's party and
 the candidate's immediate family to the amount set by law.
 The statement must further state that the candidate does not
 condone and will not solicit any independent electioneering
 expenditures, as defined in section 1019-B, subsection 1,
 made on behalf of the candidate.

30 The statement filed by a candidate who does not agree to
32 voluntarily limit political expenditures must state that the
 candidate does not accept the voluntary expenditure limits
 as set out in section 1015, subsection 8.

34 The statement filed by a candidate who has filed a
36 declaration of intent under the Maine Clean Election Act
38 must state that the candidate will be bound by the
 expenditure limitations imposed by that Act.

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

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

48 **Sec. 3. 21-A MRSA §1019**, as amended by PL 2001, c. 465, §1,
50 is repealed.

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Sec. 4. 21-A MRSA §1019-B is enacted to read:

§1019-B. Reports of independent electioneering expenditures

1. Independent electioneering expenditures; definition.

For the purposes of this section, "independent electioneering expenditure" means 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, aggregating in excess of \$100 during any one candidate's election for any communication that:

A. Expressly advocates the election or defeat of a clearly identified candidate; or

B. In races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5, names or depicts a clearly identified candidate during the 45 calendar days before a primary election or the 60 calendar days before a general election for the purpose of promoting the election or defeat of that candidate.

2. Presumption. A communication made under subsection 1, paragraph B is presumed to be for the purpose of promoting the election or defeat of a candidate if it:

A. Is made by a political party, political committee or political action committee, or by a person acting in cooperation, consultation or concert with, or at the request or suggestion of, a political party, political committee or political action committee; or

B. Makes reference to an upcoming election and is targeted to the clearly identified candidate's district.

3. Exceptions. A communication is not an independent electioneering expenditure under subsection 1, paragraph B if all references to candidates are limited to:

A. Urging contact with an elected official concerning pending government business; or

B. Promotion of a business or commercial interest of the candidate that is unrelated to the candidacy and in which the candidate has held an interest for a minimum of 6 months before qualifying as a candidate.

4. Report required; content; rules. A person, party committee, political committee or political action committee that

2 makes an independent electioneering expenditure shall file a
3 report with the commission. In the case of a municipal election,
4 a copy of the same information must be filed with the municipal
5 clerk.

6 A. A report required by this subsection must be filed with
7 the commission according to a reporting schedule that the
8 commission shall establish by rule that takes into
9 consideration existing campaign finance reporting
10 requirements and matching fund provisions under chapter 14.
11 Rules adopted pursuant to this subsection are routine
12 technical rules as defined in Title 5, chapter 375,
13 subchapter 2-A.

14 B. A report required by this subsection must contain an
15 itemized account of each contribution or expenditure
16 aggregating in excess of \$100 in any one candidate's
17 election, the date and purpose of each contribution or
18 expenditure and the name of each payee or creditor. The
19 report must state whether the contribution or expenditure is
20 in support of or in opposition to the candidate and must
21 include, under penalty of perjury, as provided in Title
22 17-A, section 451, a statement under oath or affirmation
23 whether the contribution or expenditure is made in
24 cooperation, consultation or concert with, or at the request
25 or suggestion of, the candidate or an authorized committee
26 or agent of the candidate.

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

31 **Sec. 5. 21-A MRSA §1020-A, sub-§5-A, ¶A,** as enacted by PL
32 2001, c. 714, Pt. PP, §1 and affected by §2, is amended to read:

33 A. Five thousand dollars for reports required under section
34 1017, subsection 2, ~~paragraphs~~ paragraph B, C, D, E or H;
35 section 1017, subsection 3-A, ~~paragraphs~~ paragraph B, C, D
36 or F; section 1017, subsection 4; and section ~~1019~~ 1019-B,
37 subsection 4;

38 **Sec. 6. 21-A MRSA §1125, sub-§9,** as enacted by IB 1995, c. 1,
39 §17, is amended to read:

40 **9. Matching funds.** When any campaign, finance or election
41 report shows that the sum of a candidate's expenditures or
42 obligations, or funds raised or borrowed, whichever is greater,
43 alone or in conjunction with independent electioneering
44 expenditures reported under section ~~1019~~ 1019-B, exceeds the
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2 distribution amount under subsection 8, the commission shall
issue immediately to any opposing Maine Clean Election Act
4 candidate an additional amount equivalent to the reported
excess. Matching funds are limited to 2 times the amount
6 originally distributed under subsection 8, paragraph A or C,
whichever is applicable.

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SUMMARY

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12 This bill expands the scope of reporting for independent
electioneering expenditures in races involving a Maine Clean
Election Act candidate and clarifies which expenditures trigger
14 matching funds under the Maine Clean Election Act.