

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1495

H.P. 1052

House of Representatives, March 28, 2005

An Act To Limit Corporate Influence Over the Political Process

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUDLEY of Portland.
Cosponsored by Senator BROMLEY of Cumberland and
Representatives: BRYANT of Windham, DUPLESSIE of Westbrook, FAIRCLOTH of
Bangor, PINGREE of North Haven, TWOMEY of Biddeford, WEBSTER of Freeport,
Senator: President EDMONDS of Cumberland.

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

4 **Sec. 1. 13-C MRSA §102, sub-§2-B** is enacted to read:

6 **2-B. Commercial communication.** "Commercial communication" means expression that is related to the presentation or sale of a product or service or other commercial transaction.

8
10 **Sec. 2. 13-C MRSA §102, sub-§11**, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

12 **11. Entity.** "Entity" includes a domestic or foreign business corporation; a domestic or foreign nonprofit corporation; an estate; a partnership; a trust; 2 or more persons having a joint or common economic interest; a domestic or foreign unincorporated entity; a municipal corporation and all agencies of a municipal corporation; a state and all agencies of a state; the United States and all agencies of the United States; and a foreign government and all agencies of a foreign government; an association; an organization; a trustee; a trustee in bankruptcy; a receiver; and any other legal representative.

22
24 **Sec. 3. 13-C MRSA §102, sub-§28**, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

26 **28. Person.** "Person" ~~includes~~ means an individual and. "Person" does not include an entity.

28
30 **Sec. 4. 13-C MRSA §102, sub-§28-A** is enacted to read:

32 **28-A. Political speech or activity.** "Political speech or activity" means speech or activity that is not commercial communication.

34
36 **Sec. 5. 13-C MRSA §105**, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

38 **§105. Reservation of power**

40
42 Notwithstanding any law to the contrary, the Legislature may amend or repeal all or part of this Act and any other act relating to domestic and foreign corporations passed on or after March 17, 1831 in the same manner as if an express provision to that effect were contained in the act, the articles of incorporation of a domestic corporation or the application for authority to transact business of a foreign corporation. All domestic and foreign corporations subject to this Act are governed by the amendment or repeal.

2 **Sec. 6. 13-C MRSA §§106, 107 and 108** are enacted to read:

4 **§106. Corporation speech rights**

6 **1. Engage in commercial communication.** A corporation may
engage in commercial communication and hire, retain and contract
8 with 3rd parties to assist the corporation in engaging in
commercial communication.

10

12 **2. Engage in political speech or activity.** Notwithstanding
any law to the contrary, a corporation may not make a
contribution or expenditure to finance political speech or
14 activity, including the hiring of 3rd parties and the payment for
political advertising in any form; however, a corporation may
16 make a contribution or expenditure to pay the salary and
reasonable travel expenses of employees, officers or directors of
18 the corporation while those persons are engaging in political
speech or activity, including writing print and electronic
20 editorials, articles or letters to the editor, appearing at
hearings, interviews, meetings or any other public event and
22 expressing views, either individually or as representatives of
the corporation.

24

As used in this subsection, "contribution or expenditure"
26 includes any direct or indirect payment, distribution, loan,
advance, deposit or gift of money or any services or anything of
28 value but does not include:

30 A. Communications by a corporation to its stockholders and
executive or administrative personnel and their families;

32

34 B. Nonpartisan registration and so-called "get out the
vote" campaigns by a corporation aimed at its stockholders
and executive or administrative personnel and their
36 families; or

38 C. The establishment or administration of, or solicitation
of contributions to, a separate segregated fund to be used
40 for political purposes by the corporation.

42 **§107. Other corporation rights**

44 In addition to the rights specified in section 106, a
corporation has the following rights:

46

48 **1. Petition.** To petition the government for a redress of
grievances;

2 2. Secure in property. To be secure in its property,
papers and effects;

4 3. Search and seizure. To be protected against
unreasonable search and seizure;

6 4. Warrants. To have no warrants issued except upon
8 probable cause, supported by oath or affirmation and particularly
describing the place to be searched and the persons or things to
10 be seized;

12 5. Due process of law. To not be deprived of property
without due process of law;

14 6. Just compensation. To not have the corporation's
16 private property taken for public use without just compensation;
and

18 7. Equal protection. To equal protection as compared to
20 other business corporations but not as compared to a person or
other entity.

22 **§108. Other entity rights**

24 An entity, other than a domestic or foreign business
26 corporation, has the same rights as a person.

28 **Sec. 7. Review of use of "person."** The Joint Standing Committee
on Judiciary shall review the use of the term "person" throughout
30 the Maine Revised Statutes, Title 13-C to ensure consistency of
the use of that term with this Act. The committee shall report
32 out by January 15, 2006 any legislation necessary to carry out
the intent of this Act.

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SUMMARY

38 This bill changes the definition of "person" for purposes of
the Maine Business Corporation Act to specify that "person" means
40 a natural person and not an entity such as a corporation, a
state, the United States or a foreign government. The purpose of
42 this change is to prohibit a corporation from engaging in
political speech or activity using funds of the corporation,
44 unless those funds are from a segregated account established
specifically for the purpose of funding political speech or
46 activity.