

# MAINE STATE LEGISLATURE

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1008

L.D. 1596

DATE: 3-27-06

(Filing No. S-521)

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**LEGAL AND VETERANS AFFAIRS**

Reported by:

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**STATE OF MAINE  
SENATE  
122ND LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 570, L.D. 1596, Bill, "An Act Limiting Clean Election Candidates' Campaign Soliciting"

Amend the bill by striking out the title and substituting the following:

**'An Act Regarding the Maine Clean Election Act'**

Further amend the bill by striking everything after the title and before the summary and inserting in its place the following:

**'Emergency preamble. Whereas,** acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** campaigns for candidates participating in the Maine Clean Election Act seeking election in 2006 are already underway; and

**Whereas,** proper enforcement is necessary to ensure that funds distributed from the Maine Clean Election Fund are being spent in accordance with the law; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**COMMITTEE AMENDMENT**

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

2           **Sec. 1. 21-A MRSA §1014, sub-§4**, as amended by PL 1995, c.  
4 483, §6, is further amended to read:

6           **4. Enforcement.** An expenditure, communication or broadcast  
8 made within 10 days before the election to which it relates that  
results in a violation of this section may result in a civil  
10 ~~forfeiture~~ fine of no more than \$200. An expenditure,  
communication or broadcast made more than 10 days before the  
12 election that results in a violation of this section may result  
in a civil ~~forfeiture~~ fine of no more than \$100 if the violation  
14 is not corrected within 10 days after the candidate or other  
person who committed the violation receives notification of the  
violation from the commission. If the commission determines that  
16 a person violated this section with the intent to misrepresent  
the name or address of the person who made or financed the  
18 communication or whether the communication was or was not  
authorized by the candidate, the commission may impose a fine of  
20 no more than \$5,000 against the person responsible for the  
communication. Enforcement and collection procedures must be in  
22 accordance with section 1020-A.

24           **Sec. 2. 21-A MRSA §1017, sub-§8, ¶C**, as enacted by PL 1989, c.  
26 504, §§17 and 31, is amended to read:

28           C. An unrestricted gift to the State . A candidate for  
municipal office may dispose of a surplus by making a  
30 restricted or unrestricted gift to the municipality;

32           **Sec. 3. 21-A MRSA §1125, sub-§6**, as amended by PL 2005, c.  
301, §31, is further amended to read:

34           **6. Restrictions on contributions and expenditures for**  
**certified candidates.** After certification, a candidate must  
36 limit the candidate's campaign expenditures and obligations,  
including outstanding obligations, to the revenues distributed to  
38 the candidate from the fund and may not accept any contributions  
unless specifically authorized by the commission. Candidates may  
40 also accept and spend interest earned on bank accounts. All  
revenues distributed to a certified ~~candidate~~ candidate from the  
42 fund must be used for campaign-related purposes. The candidate,  
the treasurer, the candidate's committee authorized pursuant to  
44 section 1013-A, subsection 1 or any agent of the candidate and  
committee may not use these revenues for any but campaign-related  
46 purposes. The commission shall publish guidelines outlining  
permissible campaign-related expenditures.

48           **Sec. 4. 21-A MRSA §1125, sub-§7-A** is enacted to read:  
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7-A. Deposit into account. The candidate or committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

Sec. 5. 21-A MRSA §1125, sub-§12-A is enacted to read:

12-A. Required records. The treasurer shall obtain and keep:

A. Bank or other account statements for the campaign account covering the duration of the campaign;

B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and

C. A record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee.

The treasurer shall preserve the records for 2 years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the commission upon its request.

Sec. 6. 21-A MRSA §1127, sub-§1, as amended by PL 2005, c. 301, §33, is further amended to read:

1. Civil fine. In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds. This fine is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. Fines paid under this section must be deposited in the fund. In

determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

Sec. 7. Appropriations and allocations. The following appropriations and allocations are made.

GOVERNMENTAL ETHICS AND ELECTION PRACTICES, COMMISSION ON 0414

Maine Clean Election Fund

Initiative: Establishes one Planning and Research Assistant project position from May 1, 2006 to January 31, 2007 to monitor candidates' expenditures of Maine Clean Election Act funds for compliance with expenditure guidelines and to encourage complete reporting of candidates' financial activities.

OTHER SPECIAL REVENUE FUNDS	2005-06	2006-07
Personal Services	\$12,623	\$40,042
All Other	(\$12,623)	(\$40,042)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.'

SUMMARY

This amendment replaces the bill.

1. It provides for an increased penalty for not including information about who paid for a political communication with intent to mislead.

2. It provides that municipal candidates may dispose of surplus campaign funds by making a gift to the municipality as state candidates may dispose of surplus campaign funds by making a gift to the State.

3. It clarifies that a candidate participating in the Maine Clean Election Act and all agents of the candidate may not use public funds for anything other than campaign-related purposes.

4. It requires candidates to deposit Maine Clean Election Act funds into a bank account or other financial institution account.

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5. It requires Maine Clean Election Act candidates to keep vendor invoices and cancelled checks or other proof of payment to vendors for expenditures of \$50 or more.

6. It requires that a participating candidate keep account statements for 2 years after the candidate's last election.

7. It authorizes the Commission on Governmental Ethics and Election Practices to require the repayment of Maine Clean Election Act funds used by a campaign treasurer or consultant for other than campaign-related purposes.

8. It adds an appropriations and allocations section to transfer money from All Other to Personal Services within the Maine Clean Election Fund to pay for a support staff position for 9 months during the 2006 election year devoted primarily to auditing Maine Clean Election Act candidates.

**FISCAL NOTE REQUIRED**  
**(See attached)**



# 122nd MAINE LEGISLATURE

LD 1596

LR 1021(02)

## An Act Limiting Clean Election Candidates' Campaign Soliciting

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Legal and Veterans Affairs

Fiscal Note Required: Yes

### Fiscal Note

Current biennium revenue increase - Other Special Revenue Funds

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$0	\$0	\$0

#### Fiscal Detail and Notes

As amended, this bill includes an Other Special Revenue Funds deallocation of \$12,063 and \$40,042 in All Other for fiscal year 2005-06 and 2006-07, respectively, and allocates the same amounts for Personal Services to allow the Commission on Governmental Ethics and Election Practices to establish one Planning & Research Assistant project position to audit Maine Clean Election Fund candidates. In addition, certain changes regarding penalties and fines may result in additional fine revenue being collected by the commission for the Maine Clean Election Fund; the amounts will depend on the number and size of any fines levied by the commission and can not be determined at this time.