

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1680

S.P. 586

March 22, 2007

### An Act To Reform and Simplify the Clean Election Process

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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 MILLS of Somerset.

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

2 **Sec. 1. 21-A MRSA §1014, sub-§2-A**, as enacted by PL 2005, c. 301, §11, is  
3 amended to read:

4 **2-A. Communication.** If a person makes an expenditure for a communication that  
5 names or depicts a clearly identified candidate and that is disseminated during the ~~24~~ 42  
6 days before an election through the media described in subsection 1, the communication  
7 must state the name and address of the person who made or financed the communication  
8 and a statement that the communication was or was not authorized by the candidate.

9 **Sec. 2. 21-A MRSA §1019-B, sub-§1, ¶B**, as enacted by PL 2003, c. 448, §3, is  
10 amended to read:

11 B. Is presumed in races involving a candidate who is certified as a Maine Clean  
12 Election Act candidate under section 1125, subsection 5 to be any expenditure made  
13 to design, produce or disseminate a communication that names or depicts a clearly  
14 identified candidate and is disseminated during the ~~24~~ 42 days, including election  
15 day, before a primary election; the ~~24~~ 42 days, including election day, before a  
16 general election; or during a special election until and on election day.

17 **Sec. 3. 21-A MRSA §1122, sub-§7**, as enacted by IB 1995, c. 1, §17, is amended  
18 to read:

19 **7. Qualifying contribution.** "Qualifying contribution" means a donation:

20 A. Of between \$5 in the form of a check or a money order payable to the fund and  
21 \$40 in support of a candidate;

22 B. Made by a registered voter within the electoral division for the office ~~a~~ the  
23 candidate is seeking;

24 C. Made during the designated qualifying period and obtained with the knowledge  
25 and approval of the candidate; ~~and~~

26 D. That is acknowledged ~~by a written receipt~~ on a form prescribed and prepared by  
27 the commission that identifies contains the name ~~and~~, address and signature of the  
28 donor ~~on forms provided by the commission~~, and a statement that the donation came  
29 from the donor's own funds; and

30 E. Made by a registered voter who has made no other contribution to a candidate for  
31 the same office.

32 **Sec. 4. 21-A MRSA §1122, sub-§8**, as amended by PL 2001, c. 465, §3, is  
33 further amended to read:

34 **8. Qualifying period.** "Qualifying period" means the ~~following period~~ period of time from:

35 A. ~~For a gubernatorial participating candidate, the qualifying period begins~~  
36 November 1st immediately preceding the election year ~~and ends at~~ to 5:00 p.m. on  
37 April 15th of the election year unless the candidate is unenrolled, in which case the  
38 period ends at 5:00 p.m. on June 2nd of the election year.

1 ~~B.— For State Senate or State House of Representatives participating candidates, the~~  
2 ~~qualifying period begins January 1st of the election year and ends at 5:00 p.m. on~~  
3 ~~April 15th of that election year unless the candidate is unenrolled, in which case the~~  
4 ~~period ends at 5:00 p.m. on June 2nd of the election year.~~

5 **Sec. 5. 21-A MRSA §1122, sub-§9,** as amended by PL 2005, c. 301, §28, is  
6 repealed.

7 **Sec. 6. 21-A MRSA §1125, sub-§2,** as enacted by IB 1995, c. 1, §17, is repealed.

8 **Sec. 7. 21-A MRSA §1125, sub-§2-A** is enacted to read:

9 **2-A. Restrictions on contributions for participating candidates.** Subsequent to  
10 becoming a candidate as defined by section 1, subsection 5 and prior to certification as a  
11 Maine Clean Election Act candidate, a participating candidate may not accept  
12 contributions other than qualifying contributions. Prior to certification, a candidate may  
13 obligate an amount greater than the qualifying contributions collected if the value of the  
14 goods and services received from a vendor does not exceed the amount paid to the  
15 vendor. No revenue from the fund may be used, promised, pledged or applied toward the  
16 collection of qualifying contributions. A candidate may not collect or spend  
17 contributions after certification as a Maine Clean Election Act candidate except as  
18 authorized by the commission under subsection 13. All contributions must be reported  
19 according to procedures developed by the commission.

20 **Sec. 8. 21-A MRSA §1125, sub-§3,** as amended by PL 2001, c. 465, §4, is  
21 further amended to read:

22 **3. Qualifying contributions.** Participating candidates must obtain qualifying  
23 contributions during the qualifying period as follows:

24 ~~A.— For a gubernatorial candidate, at least 2,500 verified registered voters of this~~  
25 ~~State must support the candidacy by providing a qualifying contribution to that~~  
26 ~~candidate;~~

27 ~~B.— For a candidate for the State Senate, at least 150 verified registered voters from~~  
28 ~~the candidate's electoral division must support the candidacy by providing a~~  
29 ~~qualifying contribution to that candidate; or~~

30 ~~C.— For a candidate for the State House of Representatives, at least 50 verified~~  
31 ~~registered voters from the candidate's electoral division must support the candidacy~~  
32 ~~by providing a qualifying contribution to that candidate.~~

	<u>Minimum number of</u> <u>contributors</u>	<u>Total sum required to</u> <u>qualify</u>
33		
34		
35		
36	<u>For State House of</u>	<u>\$500</u>
37	<u>Representatives</u>	
38	<u>For State Senate</u>	<u>\$1,500</u>
39	<u>For Governor</u>	<u>\$25,000</u>

1 Qualifying contributions may be in the form of cash or money orders made payable to the  
2 candidate and may be expended by a participating candidate for campaign-related  
3 purposes during the period that the candidate is seeking certification as a Maine Clean  
4 Election Act candidate.

5 A payment, gift or anything of value may not be given in exchange for a qualifying  
6 contribution. ~~A candidate may pay the fee for a money order in the amount of \$5, which~~  
7 ~~is a qualifying contribution, as long as the donor making the qualifying contribution pays~~  
8 ~~the \$5 amount reflected on the money order. Any money order fees paid by a~~  
9 ~~participating candidate must be paid for with seed money and reported in accordance with~~  
10 ~~commission rules.~~

11 **Sec. 9. 21-A MRSA §1125, sub-§4**, as enacted by IB 1995, c. 1, §17, is amended  
12 to read:

13 **4. Filing with commission.** A participating candidate must submit donor  
14 acknowledgments for all qualifying contributions as defined in section 1122, subsection 7  
15 to the commission during the qualifying period according to procedures developed by the  
16 commission, except as provided under subsection 11.

17 **Sec. 10. 21-A MRSA §1125, sub-§5**, as amended by PL 2005, c. 301, §30, is  
18 further amended to read:

19 **5. Certification of Maine Clean Election Act candidates.** Upon receipt of a final  
20 submittal of acknowledgements for all qualifying contributions by a participating  
21 candidate, the commission shall determine whether or not the candidate has:

- 22 A. Signed and filed a declaration of intent to participate in this Act;
- 23 B. ~~Submitted~~ Collected the appropriate number and amount of valid qualifying  
24 contributions;
- 25 C. Qualified as a candidate by petition or other means;
- 26 D. ~~Not accepted contributions;~~ Accepted no contributions except for seed money  
27 qualifying contributions; and otherwise complied with ~~seed money~~ restrictions under  
28 this chapter;
- 29 D-1. Not run for the same office as a nonparticipating candidate in a primary election  
30 in the same election year; and
- 31 E. Otherwise met the requirements for participation in this Act.

32 The commission shall certify a candidate complying with the requirements of this section  
33 as a Maine Clean Election Act candidate as soon as possible and no later than 3 business  
34 days after final submittal of qualifying contributions.

35 ~~Upon certification, a candidate must transfer to the fund any unspent seed money~~  
36 ~~contributions.~~ A certified candidate must comply with all requirements of this Act after  
37 certification and throughout the primary and general election periods. Failure to do so is  
38 a violation of this chapter.

1       **Sec. 11. 21-A MRSA §1125, sub-§6**, as amended by PL 2005, c. 542, §3, is  
2 further amended to read:

3       **6. Restrictions on contributions and expenditures for certified candidates.** After  
4 certification, a candidate must limit the candidate's campaign expenditures and  
5 obligations, including outstanding obligations, to the unspent qualifying contributions and  
6 revenues distributed to the candidate from the fund and may not accept any contributions  
7 unless specifically authorized by the commission. Candidates may also accept and spend  
8 interest earned on bank accounts. All revenues distributed to a certified candidate from  
9 the fund and unspent qualifying contributions must be used for campaign-related  
10 purposes as defined by the commission. The candidate, the treasurer, the candidate's  
11 committee authorized pursuant to section 1013-A, subsection 1 or any agent of the  
12 candidate and committee may not use these revenues for any but campaign-related  
13 purposes. ~~The commission shall publish guidelines outlining permissible campaign-~~  
14 ~~related expenditures.~~

15       **Sec. 12. 21-A MRSA §1125, sub-§8**, as amended by PL 2003, c. 688, Pt. A, §21,  
16 is further amended to read:

17       **8. Amount of fund distribution.** ~~By July 1, 1999 of the effective date of this Act,~~  
18 ~~and at~~ At least every 4 years after that date, the commission shall determine the amount  
19 of funds to be distributed to participating candidates based on the type of election and  
20 office as ~~follows~~ described in this section. Each initial distribution must be reduced by an  
21 amount equal to 50% of the amount of qualifying contributions collected by a  
22 participating candidate.

23       A. For contested legislative primary elections, the amount of revenues to be  
24 distributed is the average amount of campaign expenditures made by each candidate  
25 during all contested primary election races for the immediately preceding 2 primary  
26 elections, as reported in the initial filing period subsequent to the primary election,  
27 for the respective offices of State Senate and State House of Representatives.

28       B. For uncontested legislative primary elections, the amount of revenues distributed  
29 is the average amount of campaign expenditures made by each candidate during all  
30 uncontested primary election races for the immediately preceding 2 primary  
31 elections, as reported in the initial filing period subsequent to the primary election,  
32 for the respective offices of State Senate and State House of Representatives.

33       C. For contested legislative general elections, the amount of revenues distributed is  
34 the average amount of campaign expenditures made by each candidate during all  
35 contested general election races for the immediately preceding 2 general elections, as  
36 reported in the initial filing period subsequent to the general election, for the  
37 respective offices of State Senate and State House of Representatives.

38       D. For uncontested legislative general elections, the amount of revenues to be  
39 distributed from the fund is 40% of the amount distributed to a participating  
40 candidate in a contested general election.

41       E. For contested gubernatorial primary elections, the amount of revenues distributed  
42 is \$200,000 per candidate in the primary election.

1 F. For gubernatorial general elections, the amount of revenues distributed is  
2 \$400,000 per candidate in the general election.

3 If the immediately preceding election cycles do not contain sufficient electoral data, the  
4 commission shall use information from the most recent applicable elections.

5 **Sec. 13. 21-A MRSA §1125, sub-§9**, as repealed and replaced by PL 2003, c.  
6 688, Pt. A, §22, is amended to read:

7 **9. Matching funds.** When any campaign, finance or election report shows that the  
8 sum of a candidate's expenditures or obligations, or funds raised or borrowed, whichever  
9 is greater, alone or in conjunction with independent expenditures reported under section  
10 1019-B, exceeds the distribution amount under subsection 8, the commission shall issue  
11 immediately to any opposing Maine Clean Election Act candidate or privately supported  
12 candidate who meets the requirements of subsection 9-A an additional amount equivalent  
13 to the reported excess. Matching funds are limited to 2 times the amount originally  
14 distributed under subsection 8, paragraph A, C, E or F, whichever is applicable.

15 **Sec. 14. 21-A MRSA §1125, sub-§9-A** is enacted to read:

16 **9-A. Private funding option.** Prior to April 15th of an election year, a candidate  
17 whose campaign is supported by private contributions may request distribution of  
18 matching funds as provided in subsection 9 for certified Maine Clean Election Act  
19 candidates after completing an application on forms provided by the commission. The  
20 commission shall issue matching funds to the candidate if that candidate agrees to limit  
21 contributions received and expenditures made in support of that candidate's election to an  
22 amount not greater than the initial distribution amount as provided in subsection 8 to a  
23 certified Maine Clean Election Act candidate seeking election to the same office. If the  
24 candidate meets the requirements described in this section, that candidate is entitled to  
25 matching funds in the manner prescribed in subsection 9. If the commission determines  
26 that the candidate has received contributions or made expenditures in violation of this  
27 section, that candidate is subject to the penalties prescribed in section 1127.

28 **Sec. 15. 21-A MRSA §1125, sub-§10**, as amended by PL 2001, c. 465, §6, is  
29 further amended to read:

30 **10. Candidate not enrolled in a party.** ~~An unenrolled candidate certified by April~~  
31 ~~15th preceding the primary election is eligible for revenues from the fund in the same~~  
32 ~~amounts and at the same time as an uncontested primary election candidate and a general~~  
33 ~~election candidate as specified in subsections 7 and 8. For an unenrolled candidate not~~  
34 ~~certified by April 15th at 5:00 p.m. the deadline for filing on the basis of qualifying~~  
35 ~~contributions is on acknowledgements duly filed by 5:00 p.m. on June 2nd preceding the~~  
36 ~~general election. An unenrolled candidate certified after April 15th at 5:00 p.m. is~~  
37 ~~eligible for revenues from the fund in the same amounts as equal to 40% of the amount~~  
38 ~~distributed to a general election candidate, as specified in subsections 7 and 8. An~~  
39 ~~unenrolled candidate who qualifies by timely submission of acknowledgements recording~~  
40 ~~at least the minimum amount of contributions and, in addition, a number of contributors~~  
41 ~~that equals or exceeds 160% of the minimum number required by subsection 3 is eligible~~

1 for revenues from the fund equal to the amount distributed to a general election  
2 candidate.

3 **Sec. 16. 21-A MRSA §1125, sub-§13**, as enacted by IB 1995, c. 1, §17, is  
4 amended to read:

5 **13. Distributions not to exceed amount in fund.** The commission may not  
6 distribute revenues to certified candidates in excess of the total amount of money  
7 deposited in the fund as set forth in section 1124. Notwithstanding any other provisions  
8 of this chapter, if the commission determines that the revenues in the fund are insufficient  
9 to meet distributions under subsections 8 or 9, the commission may permit certified  
10 candidates to accept and spend contributions, ~~reduced by any seed money contributions,~~  
11 aggregating no more than \$500 per donor per election for gubernatorial candidates and  
12 \$250 per donor per election for State Senate and State House candidates, up to the  
13 applicable amounts set forth in subsections 8 and 9 according to rules adopted by the  
14 commission.

15 **Sec. 17. 21-A MRSA §1125, sub-§14**, as amended by PL 2005, c. 301, §32, is  
16 further amended to read:

17 **14. Appeals.** A participating candidate who has accepted contributions or made  
18 expenditures that do not comply with the restrictions under this chapter may petition the  
19 commission to remain eligible for certification as a Maine Clean Election Act candidate  
20 in accordance with rules of the commission if the failure to comply was unintentional and  
21 does not constitute a significant infraction of these restrictions. A candidate who has  
22 been denied certification as a Maine Clean Election Act candidate, the opponent of a  
23 candidate who has been granted certification as a Maine Clean Election Act candidate or  
24 other interested persons may challenge a certification decision by the commission as  
25 follows.

26 A. A challenger may appeal to the full commission within 7 days of the certification  
27 decision. The appeal must be in writing and must set forth the reasons for the appeal.

28 B. Within 5 days after an appeal is properly made and after notice is given to the  
29 challenger and any opponent, the commission shall hold a hearing. The appellant has  
30 the burden of providing evidence to demonstrate that the commission decision was  
31 improper. The commission must rule on the appeal within 3 days after the  
32 completion of the hearing.

33 C. A challenger may appeal the decision of the commission in paragraph B by  
34 commencing an action in Superior Court according to the procedure set forth in  
35 section 356, subsection 2, paragraphs D and E.

36 D. A candidate whose certification by the commission as a Maine Clean Election Act  
37 candidate is revoked on appeal must return to the commission any unspent revenues  
38 distributed from the fund. If the commission or court find that an appeal was made  
39 frivolously or to cause delay or hardship, the commission or court may require the  
40 moving party to pay costs of the commission, court and opposing parties, if any.

1

## SUMMARY

2 This bill amends the Maine Clean Election Act by combining seed money and  
3 qualifying contributions into one qualifying system. Rather than seed money, a candidate  
4 would be able to spend qualifying contributions prior to certification as a Maine Clean  
5 Election Act candidate. Qualifying contributions, which may be made by either cash or  
6 money order under this bill, are defined as any amount between \$5 and \$40 payable to the  
7 candidate or the campaign and must come from the candidate's district. To be certified as  
8 a Maine Clean Election Act candidate, the candidate must raise qualifying contributions  
9 in numbers and amounts as follows:

10	Minimum Number of	Total sum required to
11	contributors	qualify
12		
13	For House:	\$500
14	For Senate:	\$1,500
15	For Governor:	\$25,000

16 The number of required contributors remains the same as in present law, but the  
17 minimum amount of money required is doubled from \$5 per check to what would be an  
18 average of \$10 if only the minimum number were obtained. Each \$5 contribution still  
19 counts and contributions up to \$40 are acceptable. Instead of turning checks in to the  
20 commission, this bill provides that candidates submit an acknowledgment receipt signed  
21 by each contributor as evidence of the payment and support.

22 Under this bill, initial distributions from the Maine Clean Election Fund to a  
23 candidate certified as a Maine Clean Election Act candidate are reduced by one-half of  
24 the qualifying contributions collected. Under this bill, the qualifying period would begin  
25 on November 1st of the year prior to an election year for candidates for all offices.  
26 Current law provides that November 1st is the beginning of the qualifying period for just  
27 gubernatorial candidates. The bill repeals a provision that presently allows an unenrolled  
28 candidate to receive a distribution equal to a primary or general election campaign  
29 distributions in uncontested races if the candidate qualifies before April 15th.

30 For unenrolled candidates, distributions are set at 40% of those available to a party  
31 candidate unless the unenrolled candidate obtains a number of contributors equal to 160%  
32 of those required for a party candidate. The total dollar sum of contributions required by  
33 current law remains the same for party and for unenrolled candidates under this bill.

34 This bill prohibits a registered voter from making a qualifying contribution to more  
35 than one candidate for the same office. This bill removes a provision that permits a  
36 candidate to pay the fee for money orders to be used as qualifying contributions since it  
37 provides for the authorization of cash transactions for qualifying contributions. The bill  
38 provides that no revenue from the Maine Clean Election Fund may be pledged or applied  
39 to the collection of qualifying contributions.

40 This bill expands from 21 days to 42 days the period before an election in which a  
41 paid communication is deemed to be an independent expenditure if it clearly identifies a  
42 candidate on the ballot.

1       The bill also adds a private funding option for candidates. Before April 15th of an  
2 election year, a candidate whose campaign is supported by private contributions may  
3 request that the Commission on Governmental Ethics and Election Practices provide  
4 matching fund protections of the Maine Clean Election Act if the candidate agrees to  
5 limit and does, in fact, limit campaign contributions and expenditures to the amount that  
6 would be authorized for distribution to the candidate if the candidate were qualified as a  
7 Maine Clean Election Act candidate. A candidate making such an election is entitled to  
8 public matching funds in the same manner as a qualified Maine Clean Election Act  
9 candidate.