

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2070

H.P. 1454

House of Representatives, December 21, 2007

### **An Act To Improve the Campaign Finance Laws and Their Administration**

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Submitted by the Commission on Governmental Ethics and Election Practices pursuant to Joint Rule 204.

Received by the Clerk of the House on December 19, 2007. Referred to the Committee on Legal and Veterans Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PATRICK of Rumford.  
Cosponsored by Senator MARRACHÉ of Kennebec.

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

2 **Sec. 1. 1 MRSA §1002, sub-§2**, as amended by PL 2005, c. 271, §1, is further  
3 amended to read:

4 **2. Qualifications.** The members of the commission must be persons of recognized  
5 judgment, probity and objectivity. A person may not be appointed to this commission  
6 who is a member of the Legislature or who was a member of the previous Legislature,  
7 who was a declared candidate for an elective county, state or federal office within 2 years  
8 prior to the appointment; or who now holds an elective county, state or federal office;  
9 who is an officer of a political committee, party committee or political action committee  
10 or who holds a position in a political party or campaign. A person may not serve on the  
11 commission who is an officer, director, employee or primary decision maker of a party  
12 committee, political action committee or candidate committee authorized under Title  
13 21-A, section 1013-A, subsection 1, paragraph B.

14 **Sec. 2. 1 MRSA §1002, sub-§2-A** is enacted to read:

15 **2-A. Removal.** A member of the commission may be removed by the Governor on  
16 the address of both branches of the Legislature or by impeachment pursuant to the  
17 Constitution of Maine, Article IX, Section 5.

18 **Sec. 3. 1 MRSA §1002, sub-§2-B** is enacted to read:

19 **2-B. Conflict of interest.** This subsection governs conflicts of interest of members  
20 of the commission.

21 A. A member of the commission has a conflict of interest in a matter before the  
22 commission if the member has a business or close political relationship with a party  
23 to the matter. A close political relationship exists when a member has significant past  
24 or ongoing involvement with a political committee or a candidate, as defined in Title  
25 21-A, section 1, subsection 30 and subsection 5, respectively, or other organization  
26 involved in the matter, that would lead a reasonable person to believe that the  
27 member is unable to objectively consider the matter. A close political relationship is  
28 not created by making a contribution to a political committee, organization or  
29 candidate; party enrollment status; or mere membership in an organization involved  
30 in the matter.

31 B. If members of the commission have a conflict of interest in a matter before the  
32 commission, the members shall recuse themselves from the matter and may not vote  
33 on or attempt to influence the outcome of the matter. Whether or not recusal is  
34 required under this paragraph, members of the commission shall consider recusing  
35 themselves from any matter that would give rise to an appearance of a conflict of  
36 interest.

37 C. If the commission receives a written complaint alleging that a member has a  
38 conflict of interest, the commission shall provide the complainant an opportunity to  
39 be heard at the next meeting of the commission. At the meeting, the member may

1 address the allegations raised in the complaint and shall state whether the member has  
2 a conflict of interest in that matter.

3 **Sec. 4. 21-A MRSA §1002**, as repealed and replaced by PL 2001, c. 667, Pt. A,  
4 §43, is repealed and the following enacted in its place:

5 **§1002. Meetings of commission**

6 **1. Meeting schedule.** The commission shall meet in Augusta for the purposes of  
7 this chapter at least once per month in any year in which primary and general elections  
8 are held and every 2 weeks in the 60 days preceding an election. In the 28 days  
9 preceding an election, the commission shall meet in Augusta within one calendar day of  
10 the filing of any complaint or question with the commission. Agenda items in the 28  
11 days preceding an election must be decided within 24 hours of the filing unless all parties  
12 involved agree otherwise.

13 **2. Telephone meetings.** The commission may hold meetings over the telephone if  
14 necessary, as long as the commission provides notice to all affected parties in accordance  
15 with the rules of the commission and the commission's office remains open for  
16 attendance by complainants, witnesses, the press and other members of the public.  
17 Notwithstanding Title 1, chapter 13, telephone meetings of the commission are permitted:

18 A. During the 28 days prior to an election when the commission is required to meet  
19 within 24 hours of the filing of any complaint or question with the commission; or

20 B. To address procedural or logistical issues before a monthly meeting, such as the  
21 scheduling of meetings, deadlines for parties' submission of written materials, setting  
22 of meeting agenda, requests to postpone or reschedule agenda items, issuing  
23 subpoenas for documents or witnesses and recusal of commission members.

24 **3. Other meetings.** The commission shall meet at other times on the call of the  
25 Secretary of State, the President of the Senate, the Speaker of the House or the chair or a  
26 majority of the members of the commission, as long as all members are notified of the  
27 time, place and purpose of the meeting at least 24 hours in advance.

28 **4. Office hours before election.** The commission office must be open with  
29 adequate staff resources available to respond to inquiries and receive complaints from 8  
30 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding  
31 an election and from 8 a.m. until at least 8 p.m. on election day.

32 **Sec. 5. 21-A MRSA §1003, sub-§3-A** is enacted to read:

33 **3-A. Audit working papers.** Audit working papers are confidential and may not be  
34 disclosed to any person outside of the commission except the audited entity, other entities  
35 as necessary for the conduct of the audit and law enforcement and other agencies for  
36 purposes of reporting, investigating or prosecuting a criminal or civil violation. For  
37 purposes of this subsection, "audit working papers" means all documentary and other  
38 information acquired, prepared or maintained by the commission during the conduct of an  
39 audit or investigation, including all intra-agency and interagency communications relating  
40 to the audit or investigation and draft reports or any portion of a draft report. A final

1 audit report or any records made public in an enforcement or other proceeding of the  
2 commission are not confidential.

3 **Sec. 6. 21-A MRSA §1005** is enacted to read:

4 **§1005. Restrictions on commercial use of contributor information**

5 Information concerning contributors contained in campaign finance reports filed by  
6 candidates, political action committees and party committees and reports filed under  
7 section 1056-B may not be used for any commercial purpose, including, but not limited  
8 to, the sales and marketing of products and services, or for solicitations of any kind not  
9 directly related to activities of a political party, so-called "get out the vote" efforts or  
10 activities directly related to a campaign as defined in section 1052. Any person obtaining  
11 contributor information from the reports is prohibited from selling or distributing it to  
12 others to use for commercial purposes and also is prohibited from making publicly  
13 available the mailing addresses of contributors. This section does not prohibit a political  
14 party, party committee, candidate committee, political action committee or any other  
15 organization that has obtained contributor information from the commission from  
16 providing access to such information to its members for purposes directly related to party  
17 activities, so-called "get out the vote" efforts or a campaign as defined in section 1052. A  
18 person who violates this section is subject to a fine of up to \$5,000. A person who  
19 knowingly violates this section commits a Class E crime.

20 **Sec. 7. 21-A MRSA §1011, sub-§1**, as enacted by PL 1995, c. 483, §2, is  
21 amended to read:

22 **1. Role of the municipal clerk; commission.** For candidates for municipal office,  
23 the municipal clerk is responsible for any duty assigned to the commission in this  
24 subchapter related to the registration of candidates, receipt of reports and distribution of  
25 information or forms, unless otherwise provided. Notwithstanding any other deadline set  
26 forth in this chapter, candidates must file their reports by the close of business on the  
27 filing deadline established for the office of the municipal clerk. The commission retains  
28 the sole authority to prescribe the content of all reporting forms.

29 **Sec. 8. 21-A MRSA §1059, first ¶**, as amended by PL 2007, c. 443, Pt. A, §35, is  
30 further amended to read:

31 Committees required to register under section 1053 shall file reports in compliance  
32 with this section. All reports must be filed by 11:59 p.m. on the filing deadline, except  
33 that reports submitted to a municipal clerk must be filed by the close of business on the  
34 filing deadline.

35 **Sec. 9. 21-A MRSA §1125, sub-§3**, as amended by PL 2007, c. 240, Pt. F, §1  
36 and by c. 443, Pt. B, §6, is further amended to read:

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

- 1 A. For a gubernatorial candidate, at least 3,250 verified registered voters of this State  
2 must support the candidacy by providing a qualifying contribution to that candidate;
- 3 B. For a candidate for the State Senate, at least 150 verified registered voters from  
4 the candidate's electoral division must support the candidacy by providing a  
5 qualifying contribution to that candidate; or
- 6 C. For a candidate for the State House of Representatives, at least 50 verified  
7 registered voters from the candidate's electoral division must support the candidacy  
8 by providing a qualifying contribution to that candidate.

9 A payment, gift or anything of value may not be given in exchange for a qualifying  
10 contribution. A candidate may pay the fee for a money order that is a qualifying  
11 contribution in the amount of \$5 as long as the donor making the qualifying contribution  
12 pays the \$5 amount reflected on the money order. Any money order fees paid by a  
13 participating candidate must be paid for with seed money and reported in accordance with  
14 commission rules. A money order must be signed by the contributor to be a valid  
15 qualifying contribution. The commission may establish by routine technical rule, adopted  
16 in accordance with Title 5, chapter 375, subchapter 2-A, a procedure for a qualifying  
17 contribution to be made by a credit or debit transaction and by electronic funds transfer  
18 over the Internet. Information that the commission maintains electronically concerning  
19 individuals who have made qualifying contributions over the Internet is confidential and  
20 is not a public record within the meaning of Title 1, chapter 13, subchapter 1, and the  
21 commission shall provide this information in electronic form only to the candidate  
22 supported by the qualifying contribution or the candidate's designee.

23 It is a violation of this chapter for a participating candidate or an agent of the participating  
24 candidate to misrepresent the purpose of soliciting qualifying contributions and obtaining  
25 the contributor's signed acknowledgement.

26 **Sec. 10. 21-A MRSA §1125, sub-§12**, as enacted by IB 1995, c. 1, §17, is  
27 amended to read:

28 **12. Reporting; unspent revenue.** Notwithstanding any other provision of law,  
29 participating and certified candidates shall report any money collected, all campaign  
30 expenditures, obligations and related activities to the commission according to procedures  
31 developed by the commission. If a certified candidate pays fund revenues to a member of  
32 the candidate's immediate family or a business or nonprofit entity affiliated with a  
33 member of the candidate's immediate family, the candidate must disclose the family  
34 relationship in a manner prescribed by the commission. Upon the filing of a final report  
35 for any primary election in which the candidate was defeated and for all general elections  
36 that candidate shall return all unspent fund revenues to the commission. In developing  
37 these procedures, the commission shall utilize existing campaign reporting procedures  
38 whenever practicable. The commission shall ensure timely public access to campaign  
39 finance data and may utilize electronic means of reporting and storing information.

## 40 SUMMARY

41 The bill authorizes the Commission on Governmental Ethics and Election Practices  
42 to hold telephone meetings to discuss procedural or logistical issues after providing notice

1 to any affected parties. It requires audit working papers to be kept confidential unless  
2 presented at a public meeting of the commission. It prohibits information filed with the  
3 commission concerning the names and address of political contributors from being used  
4 for commercial purposes, but allows the information to be used for political  
5 communications relating to state elections. It creates a filing deadline of the close of the  
6 business day for municipal clerks receiving campaign finance reports. It permits the  
7 commission to provide to candidates and their designees in electronic format the names  
8 and addresses of Maine voters who made \$5 contributions in support of the candidate  
9 qualifying for public campaign financing, but prohibits the release of that information in  
10 electronic format to others. It requires a candidate participating in the Maine Clean  
11 Election Act to disclose the family relationship of any relative who has been paid public  
12 campaign funds for providing services to the campaign. It amends the qualifications for  
13 serving on the commission and clarifies which conflicts of interest require commission  
14 members to recuse themselves from a particular matter.