

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1189

S.P. 437

In Senate, March 25, 2009

An Act To Simplify and Improve the Maine Clean Election Laws

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

Handwritten signature of Joy J. O'Brien in cursive.

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. 1 MRSA §1015, sub-§3, ¶A,** as amended by PL 2007, c. 279, §1, is
3 further amended to read:

4 A. As used in this subsection, the terms "employer," "lobbyist" and "lobbyist
5 associate" have the same meanings as in Title 3, section 312-A. As used in this
6 subsection, "contribution" has the same meaning as in Title 21-A, section 1012 ~~and~~
7 ~~includes seed money contributions as defined in Title 21-A, section 1122, subsection~~
8 ~~9.~~

9 **Sec. 2. 21-A MRSA §1122, sub-§7, ¶A,** as amended by PL 2007, c. 443, Pt. B,
10 §2, is further amended to read:

11 A. ~~Of \$5 in the form of a check or a money order payable to the fund, signed by the~~
12 ~~contributor and to \$100~~ made in support of a candidate;

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

15 **8. Qualifying period.** "Qualifying period" means the following period that begins
16 when the candidate files a declaration of intent with the commission in accordance with
17 section 1125 and ends at 5:00 p.m. on April 15th of the election year unless the candidate
18 is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.

19 A. ~~For a gubernatorial participating candidate, the qualifying period begins~~
20 ~~November 1st immediately preceding the election year and ends at 5:00 p.m. on April~~
21 ~~15th of the election year unless the candidate is unenrolled, in which case the period~~
22 ~~ends at 5:00 p.m. on June 2nd of the election year.~~

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

27 **Sec. 4. 21-A MRSA §1122, sub-§9,** as amended by PL 2007, c. 571, §10, is
28 repealed.

29 **Sec. 5. 21-A MRSA §1124, sub-§2, ¶D,** as enacted by IB 1995, c. 1, §17, is
30 amended to read:

31 D. ~~Seed money~~ Qualifying contributions remaining unspent after a candidate has
32 been certified as a Maine Clean Election Act candidate upon election day;

33 **Sec. 6. 21-A MRSA §1125, sub-§1,** as amended by PL 2007, c. 443, Pt. B, §6, is
34 further amended to read:

35 **1. Declaration of intent.** A participating candidate must file a declaration of intent
36 to seek certification as a Maine Clean Election Act candidate and to comply with the
37 requirements of this chapter. The declaration of intent must be filed with the commission
38 ~~prior to or during~~ to start the qualifying period, except as provided in subsection 11,

1 according to forms and procedures developed by the commission. ~~A participating~~
2 ~~candidate must submit a declaration of intent within 5 business days of collecting~~
3 ~~qualifying contributions under this chapter. Qualifying contributions~~ Contributions
4 collected before the declaration of intent has been filed are prohibited and will not be
5 counted toward the eligibility requirement in subsection 3.

6 **Sec. 7. 21-A MRSA §1125, sub-§2**, as amended by PL 2007, c. 443, Pt. B, §6, is
7 further amended to read:

8 **2. Contribution limits for participating candidates.** Subsequent to becoming a
9 candidate as defined by section 1, subsection 5 and prior to certification, a participating
10 candidate may not accept ~~contributions~~ funds, except for seed money other than
11 qualifying contributions. ~~A participating candidate must limit the candidate's total seed~~
12 ~~money contributions to the following amounts:~~ Revenue from the Maine Clean Election
13 Fund may not be used, promised, pledged or applied toward the collection of qualifying
14 contributions. A candidate may not collect or spend contributions after certification as a
15 Maine Clean Election Act candidate except as authorized by the commission under
16 subsection 13. All contributions must be reported according to procedures developed by
17 the commission.

18 A. Fifty thousand dollars for a gubernatorial candidate;

19 B. One thousand five hundred dollars for a candidate for the State Senate; or

20 C. Five hundred dollars for a candidate for the State House of Representatives.

21 ~~The commission may, by rule, revise these amounts to ensure the effective~~
22 ~~implementation of this chapter.~~

23 **Sec. 8. 21-A MRSA §1125, sub-§2-A**, as enacted by PL 2007, c. 443, Pt. B, §6,
24 is amended to read:

25 **2-A. Restrictions on qualifying contributions.** To be eligible for certification, a
26 participating candidate may collect and spend only ~~seed money~~ qualifying contributions
27 subsequent to becoming a candidate and prior to certification. A participating candidate
28 may not solicit, accept or collect ~~seed money~~ qualifying contributions after certification
29 as a Maine Clean Election Act candidate.

30 A. All goods and services received prior to certification must be paid for with ~~seed~~
31 ~~money~~ qualifying contributions, except for goods and services that are excluded from
32 the definition of "contribution" in section 1012, subsection 2, paragraph B. It is a
33 violation of this chapter for a participating candidate to use fund revenues received
34 after certification to pay for goods and services received prior to certification.

35 B. Prior to certification, a participating candidate may obligate an amount greater
36 than the ~~seed money~~ qualifying contributions collected, but may only receive that
37 portion of goods and services that has been paid for or will be paid for with ~~seed~~
38 ~~money~~ qualifying contributions. A participating candidate who has accepted
39 contributions or made expenditures that do not comply with the ~~seed money~~
40 restrictions under this chapter may petition the commission to remain eligible for
41 certification as a Maine Clean Election Act candidate in accordance with rules of the

1 commission, if the failure to comply was unintentional and does not constitute a
2 significant infraction of these restrictions.

3 C. Upon requesting certification, a participating candidate shall file a report of all
4 seed money qualifying contributions and expenditures. If the candidate is certified,
5 any unspent seed money 1/2 of the amount collected in qualifying contributions will
6 be deducted from the amount distributed to the candidate as provided in subsection 8.

7 **Sec. 9. 21-A MRSA §1125, sub-§3**, as amended by PL 2007, c. 571, §11, is
8 further amended to read:

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

11 A. For a gubernatorial candidate, at least 3,250 ~~verified registered voters of this State~~
12 contributors must support the candidacy by providing a qualifying ~~contribution~~
13 contributions to that candidate in the total amount of \$32,500;

14 B. For a candidate for the State Senate, at least 150 ~~verified registered voters from~~
15 ~~the candidate's electoral division~~ contributors must support the candidacy by
16 providing a qualifying ~~contribution~~ contributions to that candidate in the total amount
17 of \$1,500; or

18 C. For a candidate for the State House of Representatives, at least 50 ~~verified~~
19 ~~registered voters from the candidate's electoral division~~ contributors must support the
20 candidacy by providing a qualifying ~~contribution~~ contributions to that candidate in
21 the total amount of \$500.

22 A payment, gift or anything of value may not be given in exchange for a qualifying
23 contribution. A candidate may pay the fee for a money order that is a qualifying
24 contribution ~~in the amount of \$5~~ as long as the donor making the qualifying contribution
25 pays the \$5 amount reflected on the money order. Any money order fees paid by a
26 participating candidate must be paid for with ~~seed money~~ qualifying contributions and
27 reported in accordance with commission rules. A money order must be signed by the
28 contributor to be a valid qualifying contribution. The commission may establish by
29 routine technical rule, adopted in accordance with Title 5, chapter 375; subchapter 2-A, a
30 procedure for a qualifying contribution to be made by a credit or debit transaction and by
31 electronic funds transfer over the Internet. Records containing information provided by
32 individuals who have made qualifying contributions over the Internet are confidential,
33 except for the name of the individual making the contribution, the date of the
34 contribution, the individual's residential address and the name and office sought of the
35 candidate in whose support the contribution was made.

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

39 The candidate may retain for use as campaign funds all sums received as qualifying
40 contributions during the qualifying period.

41 **Sec. 10. 21-A MRSA §1125, sub-§4**, as amended by PL 2007, c. 443, Pt. B, §6,
42 is further amended to read:

1 **4. Filing with commission.** A participating candidate must submit ~~qualifying~~
2 ~~contributions~~, receipt and acknowledgement forms, and proof of verification of voter
3 registration ~~and a seed money report~~ to the commission during the qualifying period
4 according to procedures developed by the commission, except as provided under
5 subsection 11. Candidates for Governor shall also submit photocopies of all ~~seed money~~
6 contributions received by check or money order, bank or merchant account statements of
7 contributions received by credit or debit card and bank or other account statements for the
8 campaign account.

9 **Sec. 11. 21-A MRSA §1125, sub-§5**, as amended by PL 2007, c. 443, Pt. B, §6,
10 is further amended to read:

11 **5. Certification of Maine Clean Election Act candidates.** Upon receipt of a final
12 submittal of reports of qualifying contributions by a participating candidate, the
13 commission or its executive director shall determine whether the candidate has:

14 A. Signed and filed a declaration of intent to participate in this Act;

15 B. ~~Submitted~~ Collected the appropriate number and amount of valid qualifying
16 contributions;

17 C. Qualified as a candidate by petition or other means;

18 D. ~~Not accepted contributions~~ Accepted no money or contributions, except for seed
19 money qualifying contributions, and otherwise complied with seed money clean
20 election restrictions;

21 D-1. Not run for the same office as a nonparticipating candidate in a primary election
22 in the same election year;

23 D-2. Not been found to have made a material false statement in a report or other
24 document submitted to the commission;

25 D-3. Not had prior requests for certification denied on the basis of substantial
26 violations of this chapter or chapter 13 or certification revoked under subsection 5-A,
27 paragraphs C to G;

28 D-4. Not failed to pay any civil penalty assessed by the commission under this Title,
29 except that a candidate has 3 business days from the date of the request for
30 certification to pay the outstanding penalty and remain eligible for certification; and

31 E. Otherwise met the requirements for participation in this Act.

32 The commission or its executive director shall certify a candidate complying with the
33 requirements of this section as a Maine Clean Election Act candidate as soon as possible
34 after final submittal of qualifying contributions and other supporting documents required
35 under subsection 4 but no later than 3 business days for legislative candidates and 5
36 business days for gubernatorial candidates. The commission and its executive director
37 may take additional time if further investigation is necessary to verify compliance with
38 this Act as long as the commission notifies the candidate regarding the anticipated
39 schedule for conclusion of the investigation.

1 A certified candidate must comply with all requirements of this Act after certification and
2 throughout the primary and general election periods. Failure to do so is a violation of this
3 chapter.

4 **Sec. 12. 21-A MRSA §1125, sub-§5-A, ¶E**, as enacted by PL 2007, c. 443, Pt.
5 B, §6, is repealed.

6 **Sec. 13. 21-A MRSA §1125, sub-§6**, as amended by PL 2007, c. 443, Pt. B, §6,
7 is further amended to read:

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

20 **Sec. 14. 21-A MRSA §1125, sub-§7-A**, as amended by PL 2007, c. 443, Pt. B,
21 §6, is further amended to read:

22 **7-A. Deposit into account.** The candidate or committee authorized pursuant to
23 section 1013-A, subsection 1 shall deposit all revenues from the fund and all ~~seed money~~
24 qualifying contributions in a campaign account with a bank or other financial institution.
25 The campaign funds must be segregated from, and may not be commingled with, any
26 other funds.

27 **Sec. 15. 21-A MRSA §1125, sub-§8, ¶E**, as enacted by PL 2003, c. 453, §1, is
28 amended to read:

29 E. For gubernatorial primary elections, the amount of revenues distributed is
30 \$200,000 per candidate in ~~the~~ a contested primary election and \$80,000 for the
31 candidate in an uncontested primary election.

32 **Sec. 16. 21-A MRSA §1125, sub-§9**, as amended by PL 2007, c. 443, Pt. B, §6,
33 is further amended to read:

34 **9. Matching funds.** When any report required under this chapter or chapter 13
35 shows that the sum of a candidate's expenditures or obligations, contributions and loans,
36 or fund revenues received, whichever is greater, in conjunction with independent
37 expenditures reported under section 1019-B, exceeds the sum of an opposing certified
38 candidate's fund revenues, in conjunction with independent expenditures, the commission
39 shall issue immediately to the opposing certified candidate or privately supported
40 candidate who meets the requirements of subsection 9-A an additional amount equivalent

1 to the difference. Matching funds for certified candidates for the Legislature are limited
2 to 2 times the amount originally distributed under subsection 8, paragraph A or C,
3 whichever is applicable. Matching funds for certified gubernatorial candidates in a
4 primary election are limited to 2 times the amount originally distributed under subsection
5 8, paragraph E. Matching funds for certified gubernatorial candidates in a general
6 election are limited to the amount originally distributed under subsection 8, paragraph F.

7 **Sec. 17. 21-A MRSA §1125, sub-§9-A** is enacted to read:

8 **9-A. Private funding options.** Before April 15th of an election year, a candidate
9 whose campaign is supported by private contributions may elect to be covered by the
10 matching fund protections of this Act if the candidate agrees to limit and does limit
11 campaign contributions and expenditures to the amount that would be authorized for
12 distribution to the candidate under subsection 8 if the candidate were qualified as a Maine
13 Clean Election Act candidate. A candidate making such an election is entitled to public
14 matching funds under subsection 9 as if the candidate had qualified as a Maine Clean
15 Election Act candidate.

16 **Sec. 18. 21-A MRSA §1125, sub-§13**, as enacted by IB 1995, c. 1, §17, is
17 amended to read:

18 **13. Distributions not to exceed amount in fund.** The commission may not
19 distribute revenues to certified candidates in excess of the total amount of money
20 deposited in the fund as set forth in section 1124. Notwithstanding any other provisions
21 of this chapter, if the commission determines that the revenues in the fund are insufficient
22 to meet distributions under subsections 8 or 9, the commission may permit certified
23 candidates to accept and spend contributions, ~~reduced by any seed money contributions,~~
24 aggregating no more than \$500 per donor per election for gubernatorial candidates and
25 \$250 per donor per election for State Senate and State House candidates, up to the
26 applicable amounts set forth in subsections 8 and 9 according to rules adopted by the
27 commission.

28 **Sec. 19. 21-A MRSA §1125, sub-§14**, as amended by PL 2007, c. 443, Pt. B, §6,
29 is further amended to read:

30 **14. Appeals.** A participating candidate who has accepted contributions or made
31 expenditures that do not comply with the restrictions under this chapter may petition the
32 commission to remain eligible for certification as a Maine Clean Election Act candidate
33 in accordance with rules of the commission, if the failure to comply was unintentional
34 and does not constitute a significant infraction of these restrictions. A candidate who has
35 been denied certification as a Maine Clean Election Act candidate, the opponent of a
36 candidate who has been granted certification as a Maine Clean Election Act candidate or
37 other interested persons may challenge a certification decision by the commission or its
38 executive director as follows.

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

1 B. Within 5 days after an appeal is properly made and after notice is given to the
2 challenger and any opponent, the commission shall hold a hearing, except that the
3 commission may extend this period upon agreement of the challenger and the
4 candidate whose certification is the subject of the appeal, or in response to the request
5 of either party upon a showing of good cause. The appellant has the burden of
6 proving that the certification decision was in error as a matter of law or was based on
7 factual error. The commission must rule on the appeal within 5 business days after
8 the completion of the hearing.

9 C. A challenger may appeal the decision of the commission in paragraph B by
10 commencing an action in Superior Court within 5 days of the date of the
11 commission's decision. The action must be conducted in accordance with Rule 80C
12 of the Maine Rules of Civil Procedure, except that the court shall issue its written
13 decision within 20 days of the date of the commission's decision. Any aggrieved
14 party may appeal the decision of the Superior Court by filing a notice of appeal
15 within 3 days of that decision. The record on appeal must be transmitted to the Law
16 Court within 3 days after the notice of appeal is filed. After filing the notice of
17 appeal, the parties have 4 days to file briefs and appendices with the clerk of the
18 court. The court shall consider the case as soon as possible after the record and briefs
19 have been filed and shall issue its decision within 14 days of the decision of the
20 Superior Court.

21 D. A candidate whose certification as a Maine Clean Election Act candidate is
22 reversed on appeal must return to the commission any unspent revenues distributed
23 from the fund. If the commission or court finds that an appeal was made frivolously
24 or to cause delay or hardship, the commission or court may require the moving party
25 to pay costs of the commission, court and opposing parties, if any.

26 SUMMARY

27 This bill amends the Maine Clean Election Act and combines seed money and
28 qualifying checks into one composite qualifying system. Qualifying contributions are
29 defined as any amount of \$5 to \$100 payable to the candidate or the campaign. To
30 qualify, the candidate must raise contributions in numbers and amounts as follows:

31 1. For a gubernatorial candidate, a minimum of 3,250 contributors who contribute a
32 total amount of \$32,500;

33 2. For a candidate for the State Senate, a minimum of 150 contributors who
34 contribute a total amount of \$1,500; and

35 3. For a candidate for the House of Representatives, a minimum of 50 contributors
36 who contribute a total amount of \$500.

37 The number of required contributors remains the same as in present law, but the
38 minimum amount of money required is doubled from \$5 per contributor to what would be
39 an average of \$10 if only the minimum number of contributors were obtained. Each \$5
40 contribution still counts and contributions up to \$100 are acceptable.

1 Instead of submitting contributions to the commission, the candidates will submit
2 only the acknowledgement signed by each contributor as evidence of the payment and
3 support. Candidates will retain and use for campaign purposes all amounts collected.
4 Because seed money is abolished and blended into the system for qualifying
5 contributions, all private financial support must come in the form of qualifying
6 contributions from voters within the candidate's own district. Distributions from the
7 Maine Clean Election Fund are reduced by 1/2 of the qualifying contributions collected.

8 The qualifying period for any candidate is amended to start whenever the candidate
9 files a declaration of intent. The qualifying period for an unenrolled candidate continues
10 to end on June 2nd of each election year. The corresponding date for a party candidate
11 remains at April 15th.

12 The bill makes clear that no revenue from the Maine Clean Election Fund may be
13 pledged or applied to the collection of qualifying contributions.

14 The bill also adds a private funding option for candidates. Before April 15th of an
15 election year, a candidate whose campaign is supported by private contributions may
16 elect to be covered by the matching fund protections of the Maine Clean Election Act if
17 the candidate agrees to limit and does limit campaign contributions and expenditures to
18 the amount that would be authorized for distribution to the candidate if the candidate
19 were qualified as a Maine Clean Election Act candidate. A candidate making such an
20 election is entitled to public matching funds as if the candidate had qualified as a Maine
21 Clean Election Act candidate.