

MAINE STATE LEGISLATURE

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LEGAL AND VETERANS AFFAIRS

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**STATE OF MAINE
SENATE
124TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 536, L.D. 1451, Bill, "An Act To Amend the Maine Clean Election Act and the Enforcement Procedures of the Commission on Governmental Ethics and Election Practices"

Amend the bill in section 1 by striking out all of the indented paragraph (page 1, lines 4 to 14 in L.D.) and inserting the following:

'When the commission has reason to believe that a violation has occurred, the commission shall provide written notice to the candidate, party committee, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5, the commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure Rule 80C.'

Amend the bill by striking out all of section 3 (page 1, lines 20 to 33 in L.D.) and inserting the following:

'Sec. 3. 21-A MRSA §1004-B is enacted to read:

§1004-B. Enforcement of penalties assessed by the commission

The commission staff shall collect the full amount of any penalty and the return of Maine Clean Election Act funds required by the commission to be returned for a violation of the statutes or rules administered by the commission and has all necessary powers to carry out these duties. Failure to pay the full amount of any penalty assessed by the commission or return of Maine Clean Election Act funds is a civil violation by the candidate, treasurer, party committee, political action committee or other person. Thirty days after issuing the notice of penalty or order for the return of funds, the commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty or to return Maine Clean Election Act funds unless the commission has provided an extended deadline for payment. The Attorney General shall

COMMITTEE AMENDMENT

1 enforce the violation in a civil action to collect the full outstanding amount of the penalty
2 or order for the return of Maine Clean Election Act funds. This action must be brought in
3 the Superior Court for Kennebec County or the District Court, 7th District, Division of
4 Southern Kennebec.'

5 Amend the bill in section 5 in subsection 6 in the 20th to 22nd lines (page 2, lines 31
6 to 33 in L.D.) by striking out the following: "A candidate or political committee also may
7 request an adjudicatory hearing prior to a determination by the commission, and an
8 adjudicatory hearing must be held if requested."

9 Amend the bill in section 8 in subsection 5 in the 19th to 21st lines (page 3, lines 28
10 to 30 in L.D.) by striking out the following: "A principal officer or treasurer also may
11 request an adjudicatory hearing prior to a determination by the commission, and an
12 adjudicatory hearing must be held if requested."

13 Amend the bill in section 17 in subsection 8-A by striking out all of the last blocked
14 paragraph (page 6, lines 14 to 16 in L.D.) and inserting the following:

15 'For contested gubernatorial primary elections, the amount of revenues distributed is
16 \$400,000 per candidate in a primary election. For uncontested gubernatorial primary
17 elections the amount of revenues distributed is \$200,000. For contested and uncontested
18 gubernatorial general elections, the amount of revenues distributed is \$600,000 per
19 candidate in the general election.'

20 Amend the bill in section 18 by striking out all of subsection 9 (page 6, lines 19 to 31
21 in L.D.) and inserting the following:

22 '**9. Matching funds.** When any report required under this chapter or chapter 13
23 shows that the sum of a candidate's expenditures or obligations, contributions and loans,
24 or fund revenues received, whichever is greater, in conjunction with independent
25 expenditures reported under section 1019-B, exceeds the sum of an opposing certified
26 candidate's fund revenues, in conjunction with independent expenditures, the commission
27 shall issue immediately to the opposing certified candidate an additional amount
28 equivalent to the difference. Matching funds for certified candidates for the Legislature
29 are limited to 2 times the amount originally distributed under subsection 8, ~~paragraph A~~
30 ~~or C, whichever is applicable~~ 8-A. Matching funds for certified gubernatorial candidates
31 in a primary election are limited to 2 times half the amount originally distributed under
32 subsection 8, ~~paragraph E~~ 8-A. Matching funds for certified gubernatorial candidates in a
33 general election are limited to the amount originally distributed under subsection 8,
34 ~~paragraph F~~ 8-A.'

35 Amend the bill in section 22 in subsection 13 in the 7th line (page 8, line 3 in L.D.)
36 by striking out the following: "\$500" and inserting the following: '\$500 \$750' and in the
37 8th line (page 8, line 4 in L.D.) by striking out the following: "\$250" and inserting the
38 following: '\$250 \$350'

39 Amend the bill in section 23 in subsection 1 in the 14th to 18th lines (page 8, lines 22
40 to 26 in L.D.) by striking out the following: "Before making any determination or
41 assessment or ordering the return of funds, the commission shall provide an opportunity
42 for the candidate, treasurer, consultant or other agent of the candidate or the political
43 committee to appear before the commission and must conduct an adjudicatory hearing if
44 one is requested."

SUMMARY

This amendment strikes the provisions of the bill that make changes to the enforcement procedures of the Commission on Governmental Ethics and Election Practices that would allow the commission to seek penalties and the return of Maine Clean Election Act funds based on the commission's determination through the clerk of courts if the entity subject to the penalty does not take action to appeal the commission's determination. The amendment also makes changes in the bill regarding the distribution of Maine Clean Election Act funds to gubernatorial candidates.

FISCAL NOTE REQUIRED

(See attached)



Approved: 05/24/09 *MAC*

124th MAINE LEGISLATURE

LD 1451

LR 1888(02)

An Act To Amend the Maine Clean Election Act and the Enforcement Procedures of the Commission on Governmental Ethics and Election Practices

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

Committee: Legal and Veterans Affairs

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor cost increase - Other Special Revenue Funds
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Increases the number of civil suits.

The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

Additional costs to the Commission on Governmental Ethics and Election Practices can be absorbed within existing budgeted resources. It is possible that raising the contribution limits of privately financed candidates could result in more matching funds paid to Maine Clean Election Act candidates in an amount that cannot be determined at this time.