

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 659

H.P. 489

House of Representatives, February 17, 2011

An Act To Repeal the Maine Clean Election Laws

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative LIBBY of Waterboro.
Cosponsored by Senator THIBODEAU of Waldo and
Representatives: CHASE of Wells, CURTIS of Madison, DAVIS of Sangerville, GIFFORD of
Lincoln, O'CONNOR of Berwick, PARRY of Arundel, SIROCKI of Scarborough,
TIMBERLAKE of Turner.

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

2 **Sec. 1. 1 MRSA §1008, sub-§2**, as amended by PL 2001, c. 430, §4, is further
3 amended to read:

4 **2. Election practices.** To administer and investigate any violations of the
5 requirements for campaign reports and campaign financing, ~~including the provisions of~~
6 ~~the Maine Clean Election Act and the Maine Clean Election Fund;~~

7 **Sec. 2. 1 MRSA §1008, sub-§4**, as amended by IB 1995, c. 1, §5, is further
8 amended to read:

9 **4. Lobbyist activities.** To administer the lobbyist disclosure laws, Title 3, chapter
10 15; and

11 **Sec. 3. 1 MRSA §1008, sub-§5**, as enacted by IB 1995, c. 1, §6, is repealed.

12 **Sec. 4. 1 MRSA §1015, sub-§3, ¶A**, as amended by PL 2007, c. 279, §1, is
13 further amended to read:

14 A. As used in this subsection, the terms "employer," "lobbyist" and "lobbyist
15 associate" have the same meanings as in Title 3, section 312-A. As used in this
16 subsection, "contribution" has the same meaning as in Title 21-A, section 1012 ~~and~~
17 ~~includes seed money contributions as defined in Title 21-A, section 1122, subsection~~
18 ~~9.~~

19 **Sec. 5. 1 MRSA §1015, sub-§3, ¶B**, as amended by PL 2009, c. 286, §1, is
20 further amended to read:

21 B. The Governor, a member of the Legislature or any constitutional officer or the
22 staff or agent of the Governor, a member of the Legislature or any constitutional
23 officer may not intentionally solicit or accept a contribution from a lobbyist, lobbyist
24 associate or employer during any period of time in which the Legislature is convened
25 before final adjournment, ~~except for a qualifying contribution as defined under Title~~
26 ~~21-A, section 1122, subsection 7.~~ A lobbyist, lobbyist associate or employer may not
27 intentionally give, offer or promise a contribution, ~~other than a qualifying~~
28 ~~contribution,~~ to the Governor, a member of the Legislature or any constitutional
29 officer or the staff or agent of the Governor, a member of the Legislature or any
30 constitutional officer during any time in which the Legislature is convened before
31 final adjournment. These prohibitions apply to contributions directly and indirectly
32 solicited or accepted by, or given, offered and promised to a political action
33 committee, ballot question committee or party committee of which the Governor, a
34 member of the Legislature, a constitutional officer or the staff or agent of these
35 officials is a treasurer, officer or primary fund-raiser or decision maker.

36 **Sec. 6. 21-A MRSA §153-A, sub-§3**, as amended by PL 2005, c. 568, §6, is
37 further amended to read:

38 **3. Signing petitions.** Once an alternative registration signature statement is on file
39 with the registrar, the voter may authorize any other Maine-registered voter to sign

1 candidate petitions ~~and any Maine Clean Election Act forms~~ requiring a voter's signature
2 in the presence and at the direction of the voter, except that the individual assisting the
3 voter may not be a candidate, the circulator of the petition ~~or form~~, the voter's employer
4 or an agent of that employer or an officer or agent of the voter's union. In addition to
5 using the voter's signature stamp or signing for the voter, the individual assisting the voter
6 must print and sign the individual's own name and residence address on the petition ~~or~~
7 ~~form~~ and attest that the individual is signing on the voter's behalf. This method of signing
8 satisfies the requirements in this Title that voters personally sign candidate petitions.

9 **Sec. 7. 21-A MRSA §1004-B**, as enacted by PL 2009, c. 302, §3, is amended to
10 read:

11 **§1004-B. Enforcement of penalties assessed by the commission**

12 The commission staff shall collect the full amount of any penalty ~~and the return of~~
13 ~~Maine Clean Election Act funds required by the commission to be returned~~ for a violation
14 of the statutes or rules administered by the commission and has all necessary powers to
15 carry out these duties. Failure to pay the full amount of any penalty assessed by the
16 commission ~~or return of Maine Clean Election Act funds~~ is a civil violation by the
17 candidate, treasurer, party committee, political action committee or other person. Thirty
18 days after issuing the notice of penalty ~~or order for the return of funds~~, the commission
19 shall report to the Attorney General the name of any person who has failed to pay the full
20 amount of any penalty ~~or to return Maine Clean Election Act funds~~ unless the
21 commission has provided an extended deadline for payment. The Attorney General shall
22 enforce the violation in a civil action to collect the full outstanding amount of the penalty
23 ~~or order for the return of Maine Clean Election Act funds~~. This action must be brought in
24 the Superior Court for Kennebec County or the District Court, 7th District, Division of
25 Southern Kennebec.

26 **Sec. 8. 21-A MRSA §1013-A, sub-§1, ¶A**, as amended by PL 2009, c. 366, §2
27 and affected by §12, is further amended to read:

28 A. No later than 10 days after becoming a candidate and before accepting
29 contributions, making expenditures or incurring obligations, a candidate for state,
30 county or municipal office shall appoint a treasurer. The candidate may serve as
31 treasurer, ~~except that a candidate certified in accordance with section 1125 may not~~
32 ~~serve as treasurer~~. The candidate may have only one treasurer, who is responsible for
33 the filing of campaign finance reports under this chapter. A candidate shall register
34 the candidate's name and address and the name and address of the treasurer appointed
35 under this section no later than 10 days after the appointment of the treasurer. A
36 candidate may accept contributions personally or make or authorize expenditures
37 personally, as long as the candidate reports all contributions and expenditures to the
38 treasurer. The treasurer shall make a consolidated report of all income and
39 expenditures and provide this report to the commission.

40 (1) A candidate may appoint a deputy treasurer to act in the absence of the
41 treasurer. The deputy treasurer, when acting in the absence of the treasurer, has
42 the same powers and responsibilities as the treasurer. ~~A candidate certified in~~
43 ~~accordance with section 1125 may not serve as deputy treasurer.~~ When a

1 treasurer dies or resigns, the deputy treasurer may not assume the position of
2 treasurer unless the candidate appoints the deputy treasurer to the position of
3 treasurer. The candidate shall report the name and address of the deputy treasurer
4 to the commission no later than 10 days after the deputy treasurer has been
5 appointed.

6 **Sec. 9. 21-A MRSA §1013-A, sub-§1, ¶C**, as amended by PL 2007, c. 443, Pt.
7 A, §7, is further amended to read:

8 C. No later than 10 days after becoming a candidate, as defined in section 1,
9 subsection 5, a candidate for the office of State House of Representatives or Senate
10 shall file in writing a statement declaring that the candidate agrees to accept voluntary
11 limits on political expenditures or that the candidate does not agree to accept
12 voluntary limits on political expenditures, as specified in section 1015, subsections 7
13 to 9. ~~A candidate who has filed a declaration of intent to become certified as a~~
14 ~~candidate under the Maine Clean Election Act is not required to file the written~~
15 ~~statement required by this paragraph.~~

16 The statement filed by a candidate who voluntarily agrees to limit spending must
17 state that the candidate knows the voluntary expenditure limitations as set out in
18 section 1015, subsection 8 and that the candidate is voluntarily agreeing to limit the
19 candidate's political expenditures and those made on behalf of the candidate by the
20 candidate's political committee or committees, the candidate's party and the
21 candidate's immediate family to the amount set by law. The statement must further
22 state that the candidate does not condone and will not solicit any independent
23 expenditures made on behalf of the candidate.

24 The statement filed by a candidate who does not agree to voluntarily limit political
25 expenditures must state that the candidate does not accept the voluntary expenditure
26 limits as set out in section 1015, subsection 8.

27 **Sec. 10. 21-A MRSA §1017, sub-§3-B**, as corrected by RR 2009, c. 2, §46, is
28 repealed.

29 **Sec. 11. 21-A MRSA §1018-B, sub-§2**, as enacted by PL 2005, c. 301, §21, is
30 amended to read:

31 **2. Limitations.** Candidates may receive donations without limitation for purposes of
32 a recount from party committees and caucus campaign committees and from attorneys,
33 consultants and their firms that are donating their services without reimbursement.
34 ~~Candidates may not spend revenues received under chapter 14 for recount expenditures.~~

35 **Sec. 12. 21-A MRSA §1019-B, sub-§1, ¶A**, as enacted by PL 2003, c. 448, §3,
36 is amended to read:

37 A. Is any expenditure made by a person, party committee, political committee or
38 political action committee, other than by contribution to a candidate or a candidate's
39 authorized political committee, for any communication that expressly advocates the
40 election or defeat of a clearly identified candidate; ~~and~~.

1 **Sec. 13. 21-A MRSA §1019-B, sub-§1, ¶B**, as amended by PL 2007, c. 443, Pt.
2 A, §20, is repealed.

3 **Sec. 14. 21-A MRSA §1019-B, sub-§2**, as enacted by PL 2003, c. 448, §3, is
4 repealed.

5 **Sec. 15. 21-A MRSA §1019-B, sub-§4, ¶A**, as enacted by PL 2009, c. 524, §7,
6 is amended to read:

7 A. A report required by this subsection must be filed with the commission according
8 to a reporting schedule that the commission shall establish by rule ~~that takes into~~
9 ~~consideration existing campaign finance reporting requirements and matching fund~~
10 ~~provisions under chapter 14~~. Rules adopted pursuant to this paragraph are routine
11 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

12 **Sec. 16. 21-A MRSA §1020-A, sub-§4-A**, as amended by PL 2007, c. 443, Pt.
13 A, §22, is further amended to read:

14 **4-A. Basis for penalties.** The penalty for late filing of a report required under this
15 subchapter, ~~except for accelerated campaign finance reports required pursuant to section~~
16 ~~1017, subsection 3-B~~, is a percentage of the total contributions or expenditures for the
17 filing period, whichever is greater, multiplied by the number of calendar days late, as
18 follows:

- 19 A. For the first violation, 1%;
- 20 B. For the 2nd violation, 3%; and
- 21 C. For the 3rd and subsequent violations, 5%.

22 Any penalty of less than \$10 is waived.

23 Violations accumulate on reports with filing deadlines in a 2-year period that begins on
24 January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding
25 of a violation.

26 A report required to be filed under this subchapter that is sent by certified or registered
27 United States mail and postmarked at least 2 days before the deadline is not subject to
28 penalty.

29 A registration or report may be provisionally filed by transmission of a facsimile copy of
30 the duly executed report to the commission, as long as the facsimile copy is filed by the
31 applicable deadline and an original of the same report is received by the commission
32 within 5 calendar days thereafter.

33 ~~The penalty for late filing of an accelerated campaign finance report as required in section~~
34 ~~1017, subsection 3-B may be up to but no more than 3 times the amount by which the~~
35 ~~contributions received or expenditures obligated or made by the candidate exceed the~~
36 ~~applicable Maine Clean Election Fund disbursement amount, per day of violation. The~~
37 ~~commission shall make a finding of fact establishing when the report was due prior to~~
38 ~~imposing a penalty under this subsection. A penalty for failure to file an accelerated~~
39 ~~campaign finance report must be made payable to the Maine Clean Election Fund. In~~
40 ~~assessing a penalty for failure to file an accelerated campaign finance report, the~~

1 ~~commission shall consider the existence of mitigating circumstances. For the purposes of~~
2 ~~this subsection, "mitigating circumstances" has the same meaning as in subsection 2.~~

3 **Sec. 17. 21-A MRSA §1020-A, sub-§5-A, ¶C**, as amended by PL 2003, c. 628,
4 Pt. A, §4, is further amended to read:

5 C. One thousand dollars for reports required under section 1017, subsection 2,
6 paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; or

7 **Sec. 18. 21-A MRSA §1020-A, sub-§5-A, ¶D**, as amended by PL 2003, c. 628,
8 Pt. A, §4, is further amended to read:

9 D. Five hundred dollars for municipal, district and county committees for reports
10 required under section 1017-A, subsection 4-B; ~~or~~.

11 **Sec. 19. 21-A MRSA §1020-A, sub-§5-A, ¶E**, as enacted by PL 2001, c. 714,
12 Pt. PP, §1 and affected by §2, is repealed.

13 **Sec. 20. 21-A MRSA c. 14**, as amended, is repealed.

14 **Sec. 21. 36 MRSA §5286**, as enacted by IB 1995, c. 1, §18, is repealed.

15 **SUMMARY**

16 This bill repeals the Maine Clean Election Act.