

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 843

H.P. 640

House of Representatives, March 3, 2011

**An Act To Modernize the Maine Clean Election Act by Allowing for
Private Contributions**

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 CORNELL du HOUX of Brunswick.

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

2 **Sec. 1. 21-A MRSA §1017, sub-§3-B**, as corrected by RR 2009, c. 2, §46, is
3 amended to read:

4 **3-B. Accelerated reporting schedule.** Additional reports are required from
5 nonparticipating candidates, as defined in section 1122, subsection 5, pursuant to this
6 subsection.

7 A. In addition to other reports required by law, any candidate for Governor, State
8 Senate or State House of Representatives who is not certified as a Maine Clean
9 Election Act candidate under chapter 14 and who receives, spends or obligates more
10 than the primary or general election distribution amounts for a Maine Clean Election
11 Act candidate in the same race shall file by any means acceptable to the commission,
12 within 48 hours of that event, a report with the commission detailing the candidate's
13 total campaign contributions, including any campaign balance from a previous
14 election, obligations and expenditures to date.

15 B. A nonparticipating candidate who is required to file a report under paragraph A
16 shall file no later than 5:00 p.m.:

17 (1) For legislative candidates in a primary election only, a report on the 42nd day
18 before the date on which a primary election is held that is complete as of the 44th
19 day before that date;

20 (2) For gubernatorial candidates only, a report on the 25th day before the date on
21 which an election is held that is complete as of the 27th day before that date;

22 (3) A report on the 18th day before the date on which an election is held that is
23 complete as of the 20th day before that date; and

24 (4) A report on the 6th day before the date on which an election is held that is
25 complete as of the 8th day before that date.

26 The reports must contain the candidate's total campaign contributions, including any
27 campaign balance from a previous election, obligations and expenditures as of the
28 end date of the reporting period.

29 The nonparticipating candidate shall file only those reports that are due after the date
30 on which the candidate filed the report required under paragraph A.

31 C. A candidate who is required to file a report under paragraph A must file with the
32 commission an updated report that reports single expenditures in the following
33 amounts that are made after the 14th day before an election and more than 24 hours
34 before 11:59 p.m. on the date of that election:

35 (1) For a candidate for Governor, a single expenditure of \$1,000;

36 (2) For a candidate for the state Senate, a single expenditure of \$750; and

37 (3) For a candidate for the state House of Representatives, a single expenditure
38 of \$500.

1 A report filed pursuant to this paragraph must be filed within 24 hours of the
2 expenditure.

3 The commission shall provide forms to facilitate compliance with this subsection. The
4 commission shall notify a candidate within 48 hours if an amount reported on any report
5 under paragraph B exceeds the primary or general election distribution amounts for a
6 Maine Clean Election Act candidate in the same race and no report has been received
7 under paragraph A. If all Maine Clean Election Act candidates in the same race have
8 received authorization to spend the maximum ~~matching~~ supplemental funds under section
9 1125, subsection ~~9 9-A~~, the commission may waive the reports required by this section.

10 **Sec. 2. 21-A MRSA §1019-B, sub-§3, ¶A**, as repealed and replaced by PL 2009,
11 c. 524, §6, is amended to read:

12 A. A report required by this subsection must be filed with the commission according
13 to a reporting schedule that the commission shall establish by rule that takes into
14 consideration existing campaign finance reporting requirements and ~~matching~~
15 supplemental fund provisions under chapter 14. Rules adopted pursuant to this
16 paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter
17 2-A.

18 **Sec. 3. 21-A MRSA §1019-B, sub-§4, ¶A**, as enacted by PL 2009, c. 524, §7, is
19 amended to read:

20 A. A report required by this subsection must be filed with the commission according
21 to a reporting schedule that the commission shall establish by rule that takes into
22 consideration existing campaign finance reporting requirements and ~~matching~~
23 supplemental fund provisions under chapter 14. Rules adopted pursuant to this
24 paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter
25 2-A.

26 **Sec. 4. 21-A MRSA §1125, sub-§2**, as amended by PL 2009, c. 363, §2, is
27 further amended to read:

28 **2. Contribution limits for participating candidates.** Subsequent to becoming a
29 candidate as defined by section 1, subsection 5 and prior to certification, a participating
30 candidate may not accept contributions, except for private contributions in accordance
31 with subsection 9-A and seed money contributions. A participating candidate must limit
32 the candidate's total seed money contributions to the following amounts:

- 33 A. Two hundred thousand dollars for a gubernatorial candidate;
- 34 B. One thousand five hundred dollars for a candidate for the State Senate; or
- 35 C. Five hundred dollars for a candidate for the State House of Representatives.

36 The commission may, by rule, revise these amounts to ensure the effective
37 implementation of this chapter.

38 **Sec. 5. 21-A MRSA §1125, sub-§5-A, ¶F**, as enacted by PL 2007, c. 443, Pt. B,
39 §6, is amended to read:

1 F. Knowingly accepted any contributions, including any in-kind contributions, or
2 used funds other than fund revenues distributed under this chapter and as allowed
3 under subsection 9-A to make campaign-related expenditures without the permission
4 of the commission;

5 **Sec. 6. 21-A MRSA §1125, sub-§6**, as amended by PL 2009, c. 105, §1, is
6 further amended to read:

7 **6. Restrictions on contributions and expenditures for certified candidates.** After
8 certification, a candidate must limit the candidate's campaign expenditures and
9 obligations, including outstanding obligations, to the revenues distributed to the candidate
10 from the fund and may not accept any contributions unless specifically authorized by the
11 commission, except as provided by subsection 9-A. Candidates may also accept and
12 spend interest earned on fund revenues in campaign bank accounts. All revenues
13 distributed to a certified candidate from the fund must be used for campaign-related
14 purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to
15 section 1013-A, subsection 1 or any agent of the candidate and committee may not use
16 these revenues for any but campaign-related purposes. A television advertisement
17 purchased with these revenues must be closed-captioned when closed-captioning is
18 available from the broadcasting station who will broadcast the advertisement. The
19 commission shall publish guidelines outlining permissible campaign-related expenditures.

20 **Sec. 7. 21-A MRSA §1125, sub-§8-A, ¶C**, as enacted by PL 2009, c. 302, §17
21 and affected by §24, is amended to read:

22 C. The impact of independent expenditures on the payment of ~~matching~~
23 supplemental funds.

24 **Sec. 8. 21-A MRSA §1125, sub-§9**, as amended by PL 2009, c. 363, §10 and
25 repealed and replaced by c. 652, Pt. A, §25 and affected by §26, is repealed.

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

27 **9-A. Supplemental funds.** After a participating candidate has submitted the
28 required number of qualifying contributions to the commission, the participating
29 candidate may solicit and accept private contributions as a supplement to the funds
30 distributed under subsection 8-A for campaign expenditures. A participating candidate
31 may accept supplemental funds aggregating more than the amount of funds distributed
32 under subsection 8-A and shall deposit those funds in a segregated account as directed by
33 the commission. When a participating candidate has supplemental funds and has an
34 opponent who is not a participating candidate that has made expenditures greater than the
35 amount of the participating candidate's initial distribution under subsection 8-A, the
36 commission shall deposit into the participating candidate's segregated account an amount
37 equal to the supplemental funds received by the participating candidate totaling an
38 amount not to exceed the initial distribution made to the candidate under subsection 8-A
39 and shall authorize those funds to be spent on campaign-related expenditures in
40 accordance with this chapter. Private contributions received by a participating candidate
41 as supplemental funds in accordance with this subsection are subject to the same limits

1 and reporting requirements that govern contributions received by nonparticipating
2 candidates under chapter 13.

3 **Sec. 10. 21-A MRSA §1125, sub-§13**, as repealed and replaced by PL 2009, c.
4 524, §17, is 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 subsection 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 \$750 per donor per election for gubernatorial candidates and
12 \$350 per donor per election for State Senate and State House candidates, up to the
13 applicable amounts set forth in ~~subsections~~ subsection 8 and 9 according to rules adopted
14 by the commission.

15 This subsection is repealed September 1, 2011.

16 **Sec. 11. 21-A MRSA §1125, sub-§13-A**, as enacted by PL 2009, c. 524, §18, is
17 amended to read:

18 **13-A. 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 subsection 8-A ~~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 \$750 per donor per election for gubernatorial candidates and
25 \$350 per donor per election for State Senate and State House candidates, up to the
26 applicable amounts set forth in ~~subsections~~ subsection 8-A and 9 according to rules
27 adopted by the commission.

28 This subsection takes effect September 1, 2011.

29 **Sec. 12. 21-A MRSA §1127, sub-§1**, as amended by PL 2009, c. 302, §23, is
30 further amended to read:

31 **1. Civil fine.** In addition to any other penalties that may be applicable, a person who
32 violates any provision of this chapter or rules of the commission adopted pursuant to
33 section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund.
34 The commission may assess a fine of up to \$10,000 for a violation of the reporting
35 requirements of sections 1017 and 1019-B if it determines that the failure to file a timely
36 and accurate report resulted in the late payment of ~~matching~~ supplemental funds. In
37 addition to any fine, for good cause shown, a candidate, treasurer, consultant or other
38 agent of the candidate or the political committee authorized by the candidate pursuant to
39 section 1013-A, subsection 1 found in violation of this chapter or rules of the commission
40 may be required to return to the fund all amounts distributed to the candidate from the
41 fund or any funds not used for campaign-related purposes. If the commission makes a
42 determination that a violation of this chapter or rules of the commission has occurred, the

1 commission shall assess a fine or transmit the finding to the Attorney General for
2 prosecution. A final determination by the commission may be appealed to Superior Court
3 in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil
4 Procedure, Rule 80C. Fines assessed or orders for return of funds issued by the
5 commission pursuant to this subsection that are not paid in full within 30 days after
6 issuance of a notice of the final determination may be enforced in accordance with
7 section 1004-B. Fines paid under this section must be deposited in the fund. In
8 determining whether or not a candidate is in violation of the expenditure limits of this
9 chapter, the commission may consider as a mitigating factor any circumstances out of the
10 candidate's control.

11

SUMMARY

12 This bill replaces the existing matching funds distribution system under the Maine
13 Clean Election Act. This bill permits a participating candidate to accept private
14 contributions. Such contributions are subject to the same limits and reporting
15 requirements as those of traditionally funded candidates. When a participating candidate
16 has an opponent who spends more than the candidate's initial distribution from the Maine
17 Clean Election Fund, the candidate is authorized to spend the private contributions up to
18 the amount of the initial distribution received from the fund, which will be matched dollar
19 for dollar by the fund.