

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1526

H.P. 1120

House of Representatives, April 28, 2011

An Act Regarding Corporate and Other Entity Campaign Advertising Disclosure and Accountability

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 HINCK of Portland.
Cosponsored by Senator JACKSON of Aroostook and
Representatives: BELIVEAU of Kittery, CAREY of Lewiston, CORNELL du HOUX of
Brunswick, DILL of Cape Elizabeth, KRUGER of Thomaston, RUSSELL of Portland, TREAT
of Hallowell, Senator: BARTLETT of Cumberland.

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

2 **Sec. 1. 21-A MRSA §1015-B** is enacted to read:

3 **§1015-B. Political activities by corporations and other groups**

4 In addition to any applicable disclosure and reporting requirements prescribed by this
5 chapter, a corporation or group that makes contributions shall comply with this section.

6 For purposes of this section, "group" means a political action committee, firm,
7 partnership, trade or professional association or union.

8 **1. Contributions and expenditures by corporations and groups.** A corporation or
9 group that makes a contribution or expenditure to support or defeat a candidate,
10 referendum, direct initiative of legislation or people's veto referendum of more than
11 \$2,000 in a calendar year shall submit a report to the commission within 60 days of the
12 contribution or expenditure. The report must include but is not limited to:

13 A. The amount of the contribution or expenditure; and

14 B. The candidate, referendum, direct initiative of legislation or people's veto
15 referendum to which the contribution or expenditure relates.

16 Reports required by this subsection must be retained by the corporation or group for a
17 minimum of 5 years. The reporting requirements of this subsection are satisfied if
18 substantially similar reports are filed in accordance with other provisions of this chapter.

19 **2. Shareholder or membership approval.** Before making a contribution or
20 expenditure aggregating more than \$2,000 in a calendar year for a political
21 communication to support or defeat a candidate, referendum, direct initiative of
22 legislation or people's veto referendum, a corporation or group shall submit the content
23 and manner of distribution of the communication that resulted in exceeding the \$2,000
24 threshold, including the geographic area where the communication will be distributed, to
25 the shareholders of the corporation or members of the group for approval. The
26 corporation or group may make the contribution or expenditure for the communication if
27 a majority of the shareholders or members of the group approve and determine that the
28 expenditure or contribution is in the best interests of the corporation or group. If any
29 shareholder or member objects to the contribution or expenditure, that shareholder or
30 member may file a notice of objection with the corporation or group and is entitled to a
31 pro rata share of the amount of the contribution or expenditure subject to the objection.

32 **3. Television and radio communications; disclosure required.** A communication
33 made by or purchased by a corporation or group supporting the election or defeat of a
34 candidate, referendum, direct initiative of legislation or people's veto referendum
35 broadcast on television or radio must include the following information clearly audible or
36 visible to the viewer:

37 A. The identity of the corporation's or group's chief executive officer or principal
38 officer and the officer's title;

39 B. The city and state of the corporation's or group's principal place of business; and

1 C. The following statement, made by the chief executive officer, chair, principal
2 officer or business manager of the corporation or group:

3 "I am (name), the (office held) of
4 (name of corporation or group). (name of
5 corporation or group) paid for and approves this message."

6 For a television communication, this statement must be made with a full-screen view
7 of the person making the statement.

8 **4. Internet communications; disclosure required.** A communication made by or
9 purchased by a corporation or group supporting the election or defeat of a candidate,
10 referendum, direct initiative of legislation or people's veto referendum broadcast on the
11 Internet must include the following information clearly audible or visible to the viewer:

12 A. The identity of the corporation's or group's chief executive officer or principal
13 officer and the officer's title;

14 B. The city and state of the corporation's or group's principal place of business;

15 C. The following statement, made by the chief executive officer, chair, principal
16 officer or business manager of the corporation or group:

17 "I am (name), the (office held) of
18 (name of corporation or group). (name of corporation
19 or group) paid for and approves this message."

20 This statement must be made with a full-screen view of the person making the
21 statement.

22 D. A list of the names of the 5 persons or entities that have made the largest
23 contributions to the corporation or group in excess of \$250 during the 12-month
24 period before the date of the communication, with the words "Top Five
25 Contributors"; and

26 E. The logo of the corporation or group, if applicable.

27 **5. Print communications; disclosure required.** A printed communication made by
28 a corporation or group supporting the election or defeat of a candidate, referendum, direct
29 initiative of legislation or people's veto referendum must include the same information as
30 described in subsection 4, paragraphs A, B, D and E, set aside from other printed matter
31 so it is clearly distinguishable and printed in a font size no less than 10% of the largest
32 font size in the communication.

33 **6. Liability and civil actions.** A shareholder of a corporation or a member of a
34 group may take a civil course of action against that corporation or group if the
35 corporation or group made a contribution or expenditure without shareholder or member
36 approval in violation of subsection 2 or if the contribution or expenditure is considered to
37 have had an adverse effect on the corporation's or group's value. If a corporation or group
38 violates any provision of this section, the directors of the corporation or group at the time
39 of the contribution or expenditure are jointly and severally liable to repay the corporation
40 or group the amount of the contribution or expenditure with an interest rate of 8%
41 annually. A shareholder or member may seek compensatory damages or \$200, whichever

1 is greater, for violation of this section. Punitive damages may be awarded to a
2 shareholder or member only if there exists clear and convincing evidence that the
3 violation was made willfully and with malicious intent.

4 **7. Violations.** A person who or corporation or group that makes a communication
5 knowingly without the disclosures required by this section is punishable by a fine of 3
6 times the amount of the expenditure for the communication or \$100,000, whichever is
7 greater. A person who knowingly aids or abets a violation as described in this subsection
8 is subject to a fine of not more than \$10,000 and imprisonment not to exceed a term of
9 one year.

10 **SUMMARY**

11 This bill requires corporations or groups, including political action committees and
12 unions, that make expenditures or contributions for political communications to get
13 approval from the majority of the corporation's shareholders or, for other groups,
14 approval for contributions and expenditures from a majority of its membership. It
15 provides for specific disclosures by corporations or groups that make political
16 communications. The bill establishes liability for a corporation or group if it violates the
17 disclosure and reporting requirements. It also provides for a shareholder of the
18 corporation or member of the group to seek compensatory and punitive damages from the
19 directors of the corporation or group.