

MAINE STATE LEGISLATURE

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2011
R O F S

L.D. 1774

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Date: 3-13-12

(Filing No. H-781)

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STATE OF MAINE

5

HOUSE OF REPRESENTATIVES

6

125TH LEGISLATURE

7

SECOND REGULAR SESSION

8

HOUSE AMENDMENT "D" to S.P. 612, L.D. 1774, Bill, "An Act Regarding the Matching Funds Provisions of the Maine Clean Election Act"

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Amend the bill by striking out all of sections 6 and 7 and inserting the following:

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Sec. 6. 21-A MRSA §1122, sub-§7, ¶B, as amended by PL 2009, c. 190, Pt. B, §1, is further amended to read:

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B. Made by a registered voter within the electoral division for the office a candidate is seeking and whose voter registration has been verified according to procedures established by the commission; and

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Sec. 7. 21-A MRSA §1122, sub-§7, ¶C, as amended by PL 2007, c. 443, Pt. B, §2, is repealed.

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Sec. 8. 21-A MRSA §1124, sub-§4 is enacted to read:

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4. Return of fund revenues; dedicated use. A Maine Clean Election Act candidate in a general election may return unspent fund revenues that were distributed to that candidate at any time prior to the general election. Notwithstanding any provision of this chapter to the contrary, any unspent revenue returned to the commission pursuant to this subsection may only be used by the commission to provide supplemental payments to legislative candidates in a contested election pursuant to section 1125, subsection 9-A.

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Sec. 9. 21-A MRSA §1125, sub-§1, as amended by PL 2011, c. 389, §51, is further amended to read:

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1. **Declaration of intent.** A participating candidate must file a declaration of intent to seek certification as a Maine Clean Election Act candidate and to comply with the requirements of this chapter. The declaration of intent must be filed with the commission prior to or during the qualifying period, except as provided in subsection 11, according to forms and procedures developed by the commission. Qualifying contributions collected more than 5 business days before the declaration of intent has been filed will not be counted toward the eligibility requirement in ~~subsection~~ subsections 3 and 9-A.

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Sec. 10. 21-A MRSA §1125, sub-§5, as amended by PL 2011, c. 389, §52, is further amended to read:

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1 **5. Certification of Maine Clean Election Act candidates.** Upon receipt of a ~~final~~
2 complete submittal of ~~qualifying contributions~~ the documents required for certification
3 under subsection 4 by a participating candidate, the executive director of the commission
4 shall determine whether the candidate has:

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

6 B. Submitted the appropriate number of valid qualifying contributions;

7 C. Qualified as a candidate by petition or other means no later than 5 business days
8 after the end of the qualifying period;

9 C-1. As a gubernatorial candidate, collected at least \$40,000 in seed money
10 contributions from registered voters in the State;

11 D. Not accepted contributions, except for seed money contributions, and otherwise
12 complied with seed money restrictions;

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

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

17 D-3. Not otherwise substantially violated the provisions of this chapter or chapter 13;

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

21 D-5. Not submitted any fraudulent qualifying contributions or any falsified
22 acknowledgement forms for qualifying contributions or seed money contributions;
23 and

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

25 The executive director shall certify a candidate complying with the requirements of this
26 section as a Maine Clean Election Act candidate as soon as possible after ~~final~~ receiving
27 the complete submittal of qualifying contributions and other supporting documents
28 required under subsection 4 but no later than 3 business days for legislative candidates
29 and 5 business days for gubernatorial candidates. The executive director may take
30 additional time if further investigation is necessary to verify compliance with this Act as
31 long as the commission notifies the candidate regarding the anticipated schedule for
32 conclusion of the investigation. A candidate or other interested person may appeal the
33 decision of the executive director to the members of the commission in accordance with
34 subsection 14.

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

38 **Sec. 11. 21-A MRSA §1125, sub-§6**, as amended by PL 2011, c. 389, §54, is
39 further amended to read:

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6. Restrictions on contributions and expenditures for certified candidates. After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions other than qualifying contributions under subsection 9-A unless specifically authorized by the commission. Candidates may also accept and spend interest earned on fund revenues in campaign bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

Sec. 12. 21-A MRSA §1125, sub-§7, ¶C, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

C. No later than 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election. The supplemental payment to a legislative candidate in a contested general election must be made in the manner set forth in subsection 9-A.

Sec. 13. 21-A MRSA §1125, sub-§8-A, as enacted by PL 2009, c. 302, §17 and affected by §24, is amended to read:

8-A. Amount of fund distribution. By September 1, 2011, and at least every 2 years after that date, the commission shall determine the amount of funds to be distributed to participating candidates in legislative elections based on the type of election and office. The commission shall distribute a smaller payment to a candidate who does not have an opponent in the election. In making this determination, the commission may take into consideration any relevant information, including but not limited to:

A. The range of campaign spending by candidates for that office in the 2 preceding elections; ~~and~~

B. The Consumer Price Index published monthly by the United States Department of Labor, Bureau of Labor Statistics and any other significant changes in the costs of campaigning such as postage or fuel; ~~and.~~

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

For a legislative candidate in a contested general election, the commission shall determine the amounts of the initial payment and the supplemental payment for which a candidate may qualify under subsection 9-A. The initial payment may not be less than the supplemental payment for which a candidate may qualify.

Before making any determination, the commission shall provide notice of the determination and an opportunity to comment to the President of the Senate, the Speaker of the House of Representatives, all floor leaders, the members of the joint standing committee of the Legislature having jurisdiction over legal affairs and persons who have expressed interest in receiving notices of opportunities to comment on the commission's rules and policies. The commission shall present at a public meeting the basis for the commission's final determination.

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1 For contested gubernatorial primary elections, the amount of revenues distributed is
2 \$400,000 per candidate in a primary election. For uncontested gubernatorial primary
3 elections the amount of revenues distributed is \$200,000. For contested and uncontested
4 gubernatorial general elections, the amount of revenues distributed is \$600,000 per
5 candidate in the general election.'

6 Amend the bill by striking out all of section 9 and inserting the following:

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

8 9-A. Supplemental payments for legislative candidates in a contested general
9 election. A participating candidate who is a legislative candidate in a contested general
10 election may qualify to receive one supplemental payment from the fund by collecting
11 additional qualifying contributions beyond the number of qualifying contributions
12 required by subsection 3, paragraph B or C and submitted in the manner described in
13 subsection 4. A legislative candidate who is unopposed in the general election is not
14 eligible to receive a supplemental payment.

15 A. A candidate may collect qualifying contributions to qualify for supplemental
16 payments from January 1st to June 30th of the election year.

17 B. A candidate shall submit the required number of qualifying contributions,
18 acknowledgments by the contributors and proofs of verification of the contributors'
19 voter registrations pursuant to section 1122, subsection 7 to the commission no later
20 than 5:00 p.m. on June 30th of the election year.

21 C. A candidate for the State House of Representatives must submit at least 30 valid
22 qualifying contributions to qualify for one supplemental payment. A candidate for
23 the State Senate must submit at least 100 valid qualifying contributions to qualify for
24 one supplemental payment.

25 D. The commission shall count a qualifying contribution as valid toward the
26 supplemental payment requirements if the contribution:

27 (1) Meets the requirements for a qualifying contribution in section 1122,
28 subsection 7;

29 (2) Was not counted toward eligibility for certification in subsection 3; and

30 (3) Is documented with the required acknowledgments by the contributor and
31 proof of voter registration of the contributor pursuant to section 1122, subsection
32 7.

33 E. The commission shall determine whether the candidate is eligible for a
34 supplemental payment and notify the candidate within 10 business days of the
35 determination, but no later than July 15th of the election year. A candidate or another
36 interested person may appeal the determination. The commission shall establish an
37 appeals process for appeals made pursuant to this paragraph that is similar to the
38 process under subsection 14.

39 F. The commission may make the supplemental payment after September 1st upon
40 request of the candidate. A request for a supplemental payment must be received by
41 the commission no later than the 8th day before the general election.

1 G. The commission may establish alternate schedules to qualify for and request a
 2 supplemental payment for a candidate in a special election or in a primary or general
 3 election in which the candidate has replaced a candidate who has withdrawn from the
 4 race.

5 **Sec. 10. 21-A MRSA §1125, sub-§10**, as amended by PL 2011, c. 389, §56 and
 6 affected by §62, is further amended to read:

7 **10. Candidate not enrolled in a party.** An unenrolled candidate for the Legislature
 8 who submits the required number of qualifying contributions and other required
 9 documents under subsection 4 by 5:00 p.m. on April 20th preceding the primary election
 10 and who is certified is eligible for revenues from the fund in the same amounts and at the
 11 same time as an uncontested primary election candidate and a general election candidate
 12 as specified in subsections 7 and, 8-A and 9-A. ~~Revenues for the general election must~~
 13 ~~be distributed to the candidate no later than 3 days after certification.~~ An unenrolled
 14 candidate for Governor who submits the required number of qualifying contributions and
 15 other required documents under subsections 2-B and 4 by 5:00 p.m. on April 1st
 16 preceding the primary election and who is certified is eligible for revenues from the fund
 17 in the same amounts and at the same time as an uncontested primary election
 18 gubernatorial candidate and a general election gubernatorial candidate as specified in
 19 subsections 7 and 8-A. Revenues for the general election must be distributed to the
 20 candidate for Governor no later than 3 days after the primary election results are certified.

21 **Sec. 11. 21-A MRSA §1125, sub-§13-A**, as amended by PL 2011, c. 389, §58
 22 and affected by §62, is further amended to read:

23 **13-A. Distributions not to exceed amount in fund.** The commission may not
 24 distribute revenues to certified candidates in excess of the total amount of money
 25 deposited in the fund as set forth in section 1124. Notwithstanding any other provisions
 26 of this chapter, if the commission determines that the revenues in the fund are insufficient
 27 to meet distributions under subsection 8-A or 9 9-A, the commission may permit certified
 28 candidates to accept and spend contributions, reduced by any seed money contributions,
 29 aggregating no more than the applicable contribution limits established by the
 30 commission pursuant to section 1015, up to the applicable amounts set forth in
 31 subsections 8-A and 9 9-A according to rules adopted by the commission.

32 This subsection takes effect September 1, 2011.

33 **Sec. 12. 21-A MRSA §1126**, as amended by PL 2001, c. 465, §7, is further
 34 amended to read:

35 **§1126. Commission to adopt rules**

36 The commission shall adopt rules to ensure effective administration of this chapter.
 37 These rules must include but must not be limited to procedures for obtaining qualifying
 38 contributions, certification as a Maine Clean Election Act candidate, qualification for a
 39 supplemental payment, circumstances involving special elections, vacancies, recounts,
 40 withdrawals or replacements, collection of revenues for the fund, distribution of fund
 41 revenue to certified candidates, return of unspent fund disbursements, disposition of
 42 equipment purchased with clean election funds and compliance with the Maine Clean

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1 Election Act. Rules of the commission required by this section are major substantive
2 rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.'

3 Amend the bill by striking out all of section 11 and inserting the following:

4 '**Sec. 11. Resolve 2011, c. 89** is repealed.

5 **Sec. 12. Distributions for the 2012 primary and general election cycles.**
6 Notwithstanding the Maine Revised Statutes, Title 21-A, section 1125, subsection 8-A,
7 the Commission on Governmental Ethics and Election Practices shall distribute the
8 following amounts to candidates for the Legislature for the 2012 election cycles certified
9 as Maine Clean Election Act candidates under Title 21-A, chapter 14:

- 10 1. For a candidate for the State House of Representatives:
 - 11 A. In an uncontested election during the primary election cycle, \$0;
 - 12 B. In a contested election during the primary election cycle, \$1,500;
 - 13 C. In an uncontested election during the general election cycle, \$500; and
 - 14 D. In a contested election during the general election cycle, for the initial payment,
 - 15 \$4,000, and for the supplemental payment as provided in this Act, \$1,500; and
- 16 2. For a candidate for the State Senate:
 - 17 A. In an uncontested election during the primary election cycle, \$0;
 - 18 B. In a contested election during the primary election cycle, \$7,350;
 - 19 C. In an uncontested election during the general election cycle, \$2,000; and
 - 20 D. In a contested election during the general election cycle, for the initial payment,
 - 21 \$22,000, and for the supplemental payment as provided in this Act, \$7,500.

22 **Sec. 13. Supplemental payments for legislative candidates in a contested**
23 **general election in 2012.** Notwithstanding the Maine Revised Statutes, Title 21-A,
24 section 1125, subsection 9-A, for the 2012 general election only, a participating
25 candidate, as defined in Title 21-A, section 1122, subsection 6, who is a legislative
26 candidate in a contested general election in 2012 may qualify to receive one supplemental
27 payment from the Maine Clean Election Fund, established in Title 21-A, section 1124, by
28 collecting additional qualifying contributions, as defined in Title 21-A, section 1122,
29 subsection 7, beyond the number of qualifying contributions required by Title 21-A,
30 section 1125, subsection 3, paragraph B or C and submitted in the manner described in
31 Title 21-A, section 1125, subsection 4. A legislative candidate who is unopposed in the
32 general election is not eligible to receive a supplemental payment.

33 1. A candidate may collect qualifying contributions to qualify for supplemental
34 payments from January 1, 2012 to August 15, 2012.

35 2. A candidate shall submit the required number of qualifying contributions,
36 acknowledgments by the contributors and proofs of verification of the contributors' voter
37 registrations pursuant to Title 21-A, section 1122, subsection 7 to the Commission on
38 Governmental Ethics and Election Practices, established by Title 5, section 12004-G,
39 subsection 33 and referred to in this section as "the commission," no later than 5:00 p.m.
40 on August 15, 2012.

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1 3. A candidate for the State House of Representatives must submit at least 30 valid
2 qualifying contributions to qualify for one supplemental payment. A candidate for the
3 State Senate must submit at least 100 valid qualifying contributions to qualify for one
4 supplemental payment.

5 4. The commission shall count a qualifying contribution as valid toward the
6 supplemental payment requirements if the contribution:

7 A. Meets the requirements for a qualifying contribution in Title 21-A, section 1122,
8 subsection 7;

9 B. Was not counted toward eligibility for certification in Title 21-A, section 1125,
10 subsection 3; and

11 C. Is documented with the required acknowledgments by the contributor and proof
12 of voter registration of the contributor pursuant to Title 21-A, section 1122,
13 subsection 7.

14 5. The commission shall determine whether the candidate is eligible for a
15 supplemental payment and notify the candidate within 10 business days of the
16 determination, but no later than August 27, 2012. A candidate or another interested
17 person may appeal the determination. The commission shall establish an appeals process
18 for appeals made pursuant to this subsection that is similar to the process under Title
19 21-A, section 1125, subsection 14.

20 6. The commission may make the supplemental payment after September 1, 2012
21 upon request of the candidate. A request for a supplemental payment must be received by
22 the commission no later than October 29, 2012.

23 7. The commission may establish an alternate 2012 schedule to qualify for and
24 request a supplemental payment for a candidate in a general election in which the
25 candidate has replaced a candidate who has withdrawn from the race.

26 **Sec. 14. Rules.** The Commission on Governmental Ethics and Election Practices
27 shall adopt rules to implement this Act no later than 45 days after enactment of this Act.
28 Rules adopted in accordance with this section are routine technical rules as defined by the
29 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. The commission shall post
30 the adopted rules on its publicly accessible website and shall summarize the adopted rules
31 in a guidebook distributed to certified candidates.

32 **Sec. 15. Appropriations and allocations.** The following appropriations and
33 allocations are made.

34 **ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL**
35 **Governmental Ethics and Election Practices - Commission on 0414**

36 Initiative: Adjusts payments to candidates as a result of adjusting distributions during the
37 2012 election cycle.

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HOUSE AMENDMENT "D" to S.P. 612, L.D. 1774

1	OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
2	All Other	(\$190,336)	\$245,416
3			
4	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>(\$190,336)</u>	<u>\$245,416</u>

5 **Governmental Ethics and Election Practices - Commission on 0414**
 6 Initiative: Allocates payments to candidates based upon repealing Resolve 2011, chapter
 7 89, which reduced the amount distributed during the 2012 election cycle to 5% less than
 8 the amount distributed during the 2010 election cycle.

9	OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
10	All Other	\$245,835	\$0
11			
12	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$245,835</u>	<u>\$0</u>

13 **Governmental Ethics and Election Practices - Commission on 0414**
 14 Initiative: Adjusts payments to candidates to reflect the elimination of matching funds.

15	OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
16	All Other	(\$473,001)	(\$927,880)
17			
18	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>(\$473,001)</u>	<u>(\$927,880)</u>

19 **Governmental Ethics and Election Practices - Commission on 0414**
 20 Initiative: Adjusts allocations of payments to legislative candidates in contested general
 21 election races based upon providing an opportunity to qualify for a supplemental
 22 payment.

23	OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
24	All Other	\$0	\$139,500
25			
26	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$139,500</u>

27	ETHICS AND ELECTION PRACTICES,		
28	COMMISSION ON GOVERNMENTAL		
29	DEPARTMENT TOTALS	2011-12	2012-13
30			
31	OTHER SPECIAL REVENUE FUNDS	(\$417,502)	(\$542,964)
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33	DEPARTMENT TOTAL - ALL FUNDS	<u>(\$417,502)</u>	<u>(\$542,964)</u>
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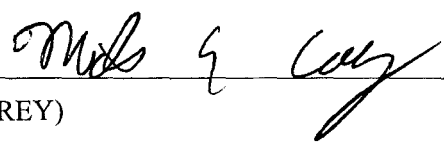
Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment establishes an alternative that provides legislative candidates in contested races the opportunity to qualify for supplemental funds to support their campaigns. Under this amendment, a candidate in a contested race certified to participate in the Maine Clean Election Act is able to qualify for an additional distribution made after September 1st of the election year upon request of the candidate. In order to qualify for the supplemental payment, a candidate for the House of Representatives needs to collect an additional 30 qualifying contributions and a candidate for the Senate is required to collect 100 additional qualifying contributions. This amendment specifies that a candidate in a general election may return unspent Maine Clean Election Fund revenue to the Commission on Governmental Ethics and Election Practices at any time prior to the general election. The commission is authorized to disburse the returned revenue to provide for supplemental payments to candidates in contested races. This amendment, for the 2012 general election cycle only, extends the amount of time a candidate has to collect qualifying contributions in order to qualify for a supplemental payment. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)

SPONSORED BY: 
(Representative CAREY)
TOWN: Lewiston



125th MAINE LEGISLATURE

LD 1774

LR 2682(18)

An Act Regarding the Matching Funds Provisions of the Maine Clean Election Act

Fiscal Note for House Amendment "D"

Sponsor: Rep. Carey of Lewiston

Fiscal Note Required: Yes

Fiscal Note

	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
Appropriations/Allocations				
Other Special Revenue Funds	\$55,499	\$384,916	\$0	\$139,500

Fiscal Detail and Notes

This floor amendment retains the original bill's repeal of requirements related to qualification for and distribution of matching funds. It also specifies distributions to candidates during the 2012 election cycle, creates an opportunity for legislative candidates in contested general election races to qualify for a supplemental payment and repeals Resolve 2011, c. 89, which reduced the amount distributed during the 2012 election cycle to 5% less than the amount distributed during the 2010 election cycle. The incremental impact as compared to the original bill is an increase in Other Special Revenue Funds allocation to the Commission on Governmental Ethics and Election Practices of \$55,499 in fiscal year 2011-12 and \$384,916 in fiscal year 2012-13.