

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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No. 1271

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H.P. 910

House of Representatives, March 28, 2013

**An Act To Increase Transparency in Reporting of Party  
Committees, Political Action Committees and Ballot Question  
Committees**

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CAREY of Lewiston.  
Cosponsored by Senator TUTTLE of York and  
Representatives: BEAULIEU of Auburn, KESCHL of Belgrade, LUCHINI of Ellsworth,  
Senators: LANGLEY of Hancock, MASON of Androscoggin, PATRICK of Oxford,  
YOUNGBLOOD of Penobscot.

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

2 **Sec. 1. 1 MRSA c. 25, sub-c. 3** is enacted to read:

3 **SUBCHAPTER 3**

4 **GOVERNOR-ELECT**

5 **§1051. Disclosure of donations to fund transition and inaugural activities**

6 The Governor-elect may solicit and accept donations for the purposes of financing  
7 the costs related to the inauguration of the Governor-elect and financing the operations  
8 related to the transition to the office of Governor. If the Governor-elect accepts donations,  
9 the Governor-elect must establish a committee and appoint a treasurer who is responsible  
10 for keeping records of donations and for filing a financial disclosure statement required  
11 by this section. All donations received must be deposited in a separate and segregated  
12 account and may not be commingled with any political contributions received by the  
13 Governor-elect or the political committee of the Governor-elect or any personal or  
14 business funds of the Governor-elect or any other person.

15 **1. Registration with the commission and financial disclosure statement of**  
16 **donors.** A committee established pursuant to this section shall register and file a  
17 financial disclosure statement with the commission as required by this subsection.

18 A. The committee shall register with the commission within 10 days of appointing a  
19 treasurer. The registration must include the names and mailing addresses of the  
20 members of the committee, its treasurer and all individuals who are raising funds for  
21 the committee.

22 B. The financial disclosure statement must contain the names, addresses, occupations  
23 and employers of all donors who have given money or anything of value to the  
24 committee, along with the amounts and dates of the donations. Loans must be  
25 disclosed as a form of donation. Donors who have given \$50 or less may be disclosed  
26 in the aggregate without itemization.

27 C. Any outstanding loan, debt or other obligation of the committee as of the filing  
28 deadline under paragraph D must be disclosed as donations to the committee.

29 D. The financial disclosure statement must be complete and filed by 5:00 p.m. on  
30 February 15th of the year following the election.

31 The commission may adopt procedures and forms for the committee to use to disclose its  
32 donors. In developing the required format of the financial disclosure statement, the  
33 commission shall consider the ease with which the public will be able to access the  
34 information and the reasonableness of the burden on the committee or the committee's  
35 treasurer.

36 **2. Limitation on fund-raising.** Except as otherwise provided in this section, a  
37 committee established pursuant to this section may begin accepting donations on the day

1 after the election of the Governor-elect until January 31st of the year following the  
2 election.

3 **3. Prohibited donations during a legislative session.** The Governor-elect or a  
4 committee established pursuant to this section or the committee's treasurer may not  
5 directly or indirectly solicit or accept a donation from a lobbyist, lobbyist associate or  
6 employer during any period of time in which the Legislature is convened before final  
7 adjournment. A lobbyist, lobbyist associate or employer may not directly or indirectly  
8 give, offer or promise a donation to the Governor-elect, treasurer or committee during  
9 any period of time in which the Legislature is convened before final adjournment.

10 **4. Anonymous donations.** A committee established pursuant to this section may not  
11 accept an anonymous donation in excess of \$10.

12 **5. Disposing of surplus funds.** Prior to the filing of the financial disclosure  
13 statement under subsection 1, any surplus funds remaining in the committee's account  
14 must either be donated to a charitable organization that qualifies as a not-for-profit  
15 corporation under the United States Internal Revenue Code of 1986, Section 501(c)(3) or  
16 be remitted to the Treasurer of State.

17 **Sec. 2. 21-A MRSA §1004-A,** as amended by PL 2009, c. 302, §§1 and 2, is  
18 further amended to read:

19 **§1004-A. Penalties**

20 The commission may assess the following penalties in addition to the other monetary  
21 sanctions authorized in this chapter.

22 **1. Late campaign finance report.** A person that files a late campaign finance report  
23 containing no contributions or expenditures may be assessed a penalty of no more than  
24 \$100, except as provided in section 1004-C.

25 **2. Contribution in excess of limitations.** A person that accepts or makes a  
26 contribution that exceeds the limitations set out in section 1015, subsections 1 and 2 may  
27 be assessed a penalty of no more than the amount by which the contribution exceeded the  
28 limitation, except as provided in section 1004-C.

29 **3. Contribution in name of another person.** A person that makes a contribution in  
30 the name of another person, or that knowingly accepts a contribution made by one person  
31 in the name of another person, may be assessed a penalty not to exceed \$5,000, except as  
32 provided in section 1004-C.

33 **4. Substantial misreporting.** A person that files a campaign finance report that  
34 substantially misreports contributions, expenditures or other campaign activity may be  
35 assessed a penalty not to exceed \$5,000, except as provided in section 1004-C.

36 **5. Material false statements.** A person that makes a material false statement or that  
37 makes a statement that includes a material misrepresentation in a document that is  
38 required to be submitted to the commission, or that is submitted in response to a request

1 by the commission, may be assessed a penalty not to exceed \$5,000, except as provided  
2 in section 1004-C.

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

12 Penalties assessed pursuant to this section that have not been paid in full within 30  
13 days after issuance of a notice of the final determination may be enforced in accordance  
14 with section 1004-B.

15 **Sec. 3. 21-A MRSA §1004-C** is enacted to read:

16 **§1004-C. Enhanced penalties for violations with aggravating circumstances**

17 Notwithstanding any maximum penalty set forth in this chapter, when assessing a  
18 penalty or monetary sanction, the commission may double the authorized penalty or  
19 monetary sanction for a violation occurring less than 28 days prior to an election day and  
20 may triple the authorized penalty or monetary sanction for a violation occurring less than  
21 14 days prior to an election day.

22 **Sec. 4. 21-A MRSA §1012, sub-§§1-A and 1-B** are enacted to read:

23 **1-A. Aggregate.** "Aggregate" means that separate contributions from a single source  
24 are added together for purposes of determining whether the total contribution meets or  
25 exceeds any limit or reporting threshold in this subchapter. Unless otherwise specified,  
26 an aggregate contribution includes all contributions from a single source within any  
27 continuous 12-month period. For reporting purposes, an aggregate contribution reaches a  
28 specified limit when the total contributions from a single source within the continuous  
29 12-month period equal or exceed the specified amount.

30 **1-B. Bundled contribution.** "Bundled contribution" means a contribution that:

31 A. A contributor entrusts to a person who in turn delivers it to a candidate  
32 committee, political action committee or party committee with other contributions,  
33 the total dollar amount of which exceeds the contribution limit applicable to a single  
34 contribution; or

35 B. Is received by a candidate committee, political action committee or party  
36 committee directly from a contributor but credited by the receiving committee to  
37 another person through records, designations or other means of recognizing that a  
38 certain amount of money has been raised by the person.

1           **Sec. 5. 21-A MRSA §1017, sub-§5**, as amended by PL 2011, c. 522, §1, is  
2 further amended to read:

3           **5. Content.** A report required under this section must contain the itemized accounts  
4 of contributions received during that report filing period, including the date a contribution  
5 was received, and the name, address, occupation, principal place of business, if any, and  
6 the amount of the contribution of each person who has made a contribution or  
7 contributions aggregating in excess of \$50. The report must contain the itemized  
8 expenditures made or authorized during the report filing period, the date and purpose of  
9 each expenditure and the name of each payee and creditor and any refund that a payee has  
10 made to the candidate or an agent of the candidate. If the payee is a member of the  
11 candidate's household or immediate family, the candidate must disclose the candidate's  
12 relationship to the payee in a manner prescribed by the commission. The report must  
13 contain a statement of any loan to a candidate by a financial institution in connection with  
14 that candidate's candidacy that is made during the period covered by the report, whether  
15 or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A.  
16 The report must contain the name, address and employer of each contributor reasonably  
17 known by the candidate to have made a bundled contribution. The candidate and the  
18 treasurer are jointly and severally responsible for the timely and accurate filing of each  
19 required report.

20           **Sec. 6. 21-A MRSA §1017-A, sub-§1**, as amended by PL 2009, c. 190, Pt. A, §8,  
21 is further amended to read:

22           **1. Contributions.** A party committee shall report all contributions in cash or in kind  
23 from a single contributor that in the aggregate total more than \$200. The party committee  
24 shall report the name, mailing address, occupation and place of business of each  
25 contributor. Contributions of \$200 or less must be reported, and these contributions may  
26 be reported as a lump sum. The party committee shall report the name, address and  
27 employer of each contributor reasonably known by the committee to have made a  
28 bundled contribution.

29           **Sec. 7. 21-A MRSA §1017-A, sub-§4-A, ¶E**, as amended by PL 2007, c. 443,  
30 Pt. A, §17, is further amended to read:

31           E. A state party committee shall report any expenditure of ~~\$500~~ \$1,000 or more  
32 made after the 14th day before the election and more than 24 hours before 5:00 p.m.  
33 on the day of the election within 24 hours of that expenditure.

34           **Sec. 8. 21-A MRSA §1017-A, sub-§4-A, ¶F** is enacted to read:

35           F. A state party committee shall report any aggregate contribution of \$1,000 or more  
36 after the 14th day before the election and more than 24 hours before 5:00 p.m. on the  
37 day of the election within 24 hours of receipt of the contribution.

38           **Sec. 9. 21-A MRSA §1017-A, sub-§4-B, ¶D** is enacted to read:

39           D. Any aggregate contribution of \$1,000 or more made after the 14th day before any  
40 election and more than 24 hours before 11:59 p.m. on the day of the election must be  
41 reported within 24 hours of the contribution.

1           **Sec. 10. 21-A MRSA §1019-C** is enacted to read:

2           **§1019-C. Reports of covered transfers**

3           **1. Definitions.** For the purposes of this section, unless the context otherwise  
4 indicates, the following terms have the following meanings.

5           A. "Covered transfer" means a transfer or payment of funds by a person, business  
6 entity or political action committee to another person, business entity or political  
7 action committee if the person, business entity or political action committee making  
8 the transfer or payment:

9                   (1) Designates, requests or suggests that the funds be used for independent  
10 expenditures or makes the transfer or payment to another person for the purpose  
11 of making or paying for independent expenditures;

12                   (2) Makes the transfer or payment in response to a solicitation or other request  
13 for a transfer or payment for the making of or paying for independent  
14 expenditures or for making a transfer or payment to another person for the  
15 purpose of making or paying for independent expenditures;

16                   (3) Engages in discussions with the recipient of the transfer or payment  
17 regarding independent expenditures or makes the transfer or payment to another  
18 person for the purpose of making or paying for independent expenditures; or

19                   (4) Made independent expenditures in an aggregate amount of \$5,000 or more  
20 during the 2-year period ending on the date of the transfer or payment or knew or  
21 had reason to know that the person receiving the transfer or payment made  
22 independent expenditures in such an aggregate amount during that 2-year period.

23           "Covered transfer" does not include a transfer or payment made by a person, business  
24 entity or political action committee in the ordinary course of any trade or business  
25 conducted by the person, business entity or political action committee or in the form  
26 of investments made by the person, business entity or political action committee.

27           "Covered transfer" does not include a transfer or payment made by a person, business  
28 entity or political action committee if the person, business entity or political action  
29 committee making the transfer or payment prohibits, in writing, the use of the transfer  
30 or payment for independent expenditures or covered transfers and the recipient of the  
31 transfer or payment agrees to follow the prohibition and deposits the transfer or  
32 payment in an account that is segregated from any account used to make independent  
33 expenditures or covered transfers.

34           "Covered transfer" does not include transfers or payments of less than \$1,000 in  
35 aggregate to a single recipient during any 12-month period.

36           B. "Independent expenditure" has the same meaning as in section 1019-B, subsection  
37 1.

38           **2. Reporting required.** An entity that makes a covered transfer shall file a report  
39 with the commission according to a reporting schedule that the commission establishes by  
40 rule. The reporting schedule must be comparable to the reporting required for  
41 independent expenditures.

1 The report must contain an itemized account of each covered transfer, including the name  
2 of the transferor, the date of the covered transfer, the amount of the covered transfer and  
3 the name of each payee or creditor.

4 If the entity making the covered transfer has received more than \$5,000 in funding from  
5 other sources for the purpose of directly or indirectly financing independent expenditures,  
6 the identities of those other sources and the amounts of funding received from them must  
7 also be reported.

8 **3. Rulemaking.** The commission shall adopt rules to ensure effective reporting of  
9 covered transfers. These rules must exempt from reporting any separate or segregated  
10 fund maintained by an entity if that fund is established with safeguards to ensure that it is  
11 not used directly or indirectly to fund independent expenditures. Rules adopted pursuant  
12 to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter  
13 2-A.

14 **Sec. 11. 21-A MRSA §1052, sub-§§1-A and 1-B** are enacted to read:

15 **1-A. Aggregate.** "Aggregate" means that separate contributions from a single source  
16 are added together for purposes of determining whether the total contribution meets or  
17 exceeds any limit or reporting threshold in this subchapter. Unless otherwise specified,  
18 an aggregate contribution includes all contributions from a single source within any  
19 continuous 12-month period. For reporting purposes, an aggregate contribution reaches a  
20 specified limit when the total contributions from a single source within the continuous  
21 12-month period equal or exceed the specified amount.

22 **1-B. Bundled contribution.** "Bundled contribution" means a contribution that:

23 A. A contributor entrusts to a person who in turn delivers it to a candidate  
24 committee, political action committee or party committee with other contributions,  
25 the total dollar amount of which exceeds the contribution limit applicable to a single  
26 contribution; or

27 B. Is received by a candidate committee, political action committee or party  
28 committee directly from a contributor but credited by the receiving committee to  
29 another person through records, designations or other means of recognizing that a  
30 certain amount of money has been raised by the person.

31 **Sec. 12. 21-A MRSA §1053-B,** as amended by PL 2011, c. 389, §36, is further  
32 amended to read:

33 **§1053-B. Out-of-state political action committees**

34 A political action committee organized outside of this State shall register and file  
35 reports with the commission in accordance with sections 1053 and 1058. The committee  
36 is not required to register and file reports if the committee's only financial activity within  
37 the State is to make contributions to candidates, party committees, political action  
38 committees or ballot question committees registered with the commission or a  
39 municipality and the committee has not raised and accepted any contributions during the  
40 calendar year to influence a campaign in this State. Nothing in this section exempts a



1 political action committee organized outside of this State from filing reports of covered  
2 transfers pursuant to section 1019-C.

3 **Sec. 13. 21-A MRSA §1059, sub-§2, ¶E**, as amended by PL 2007, c. 443, Pt. A,  
4 §35, is further amended to read:

5 E. A committee shall report any expenditure of ~~\$500~~ \$1,000 or more made after the  
6 14th day before the election and more than 24 hours before 5:00 p.m. on the day of  
7 the election within 24 hours of that expenditure.

8 **Sec. 14. 21-A MRSA §1059, sub-§2, ¶F** is enacted to read:

9 F. A committee shall report any aggregate contribution of \$1,000 or more made after  
10 the 14th day before the election and more than 24 hours before 5:00 p.m. on the day  
11 of the election within 24 hours of the contribution.

12 **Sec. 15. 21-A MRSA §1060, sub-§6**, as amended by PL 2011, c. 389, §47, is  
13 further amended to read:

14 **6. Identification of contributions.** Names, occupations, places of business and  
15 mailing addresses of contributors who have given more than \$50 to the political action  
16 committee in the reporting period and the amount and date of each contribution, except  
17 that an organization qualifying as a political action committee under section 1052,  
18 subsection 5, paragraph A, subparagraph (5) is required to report only those contributions  
19 made to the organization for the purpose of influencing a ballot question or the  
20 nomination or election of a candidate to political office and all transfers to or funds used  
21 to support the political action committee from the general treasury of the organization. A  
22 political action committee other than a ballot question committee shall report the name,  
23 address and employer of each contributor reasonably known by the committee to have  
24 made a bundled contribution; and

25 **Sec. 16. 21-A MRSA §1062-A, sub-§1**, as amended by PL 2009, c. 190, Pt. A,  
26 §28, is further amended to read:

27 **1. Registration.** A political action committee required to register under section 1053  
28 or 1053-B or a ballot question committee required to register under section 1056-B that  
29 fails to do so or that fails to provide the information required by the commission for  
30 registration may be assessed a fine of ~~\$250~~ up to \$10,000. When determining the amount  
31 of the fine, the commission shall consider the scope of activities of the political action  
32 committee or ballot question committee that were not reported due to the failure to  
33 register.

34 **Sec. 17. 21-A MRSA §1062-A, sub-§3, ¶¶A, B and C**, as enacted by PL 1995,  
35 c. 483, §21, are amended to read:

36 A. For the first violation, ~~1%~~ 2%;

37 B. For the 2nd violation, ~~3%~~ 4%; and

38 C. For the 3rd and subsequent violations, ~~5%~~ 6%.

1 **SUMMARY**

2 This bill makes the following changes to the laws governing campaign finance  
3 reporting and disclosure:

4 1. It authorizes a Governor-elect to establish a committee for the purpose of  
5 receiving donations to finance inaugural activities and the Governor-elect's transition into  
6 office and establishes requirements regarding disclosure and lobbying;

7 2. It authorizes the Commission on Governmental Ethics and Election Practices to  
8 impose enhanced penalties for campaign finance violations occurring shortly before  
9 election day;

10 3. It defines "bundled contribution" and requires that party committees and political  
11 action committees report the name, address and employer of each person reasonably  
12 known by the committee to have made a bundled contribution;

13 4. It requires that party committees, political action committees and ballot question  
14 committees report contributions aggregating \$1,000 or more and expenditures of \$1,000  
15 or more made after the 14th day before the election and more than 24 hours before the  
16 day of the election within 24 hours of the contribution or expenditure;

17 5. It requires that political action committees, party committees and ballot question  
18 committees report the name and office or the office sought of a Governor, constitutional  
19 officer, Legislator or a candidate for such an office who solicits contributions during the  
20 reporting period;

21 6. It defines "covered transfer" as a transfer of funds by a person, entity or political  
22 action committee when there is intent or understanding that the transfer is to be used to  
23 make or pay for an independent expenditure and requires that any entity making such a  
24 transfer report that transfer; and

25 7. It increases the penalties for failure to register as a political action committee or as  
26 a ballot question committee and for late filing of required reports.