

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 394

H.P. 285

House of Representatives, February 7, 2017

An Act Regarding Terminology in Campaign Finance Law

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SUTTON of Warren.
Cosponsored by Senator BRAKEY of Androscoggin and
Representatives: LOCKMAN of Amherst, O'CONNOR of Berwick, PRESCOTT of
Waterboro, SIMMONS of Waldoboro, SIROCKI of Scarborough.

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~~ Title 21-A, chapter 14;

7 **Sec. 2. 1 MRSA §1008, sub-§5**, as enacted by IB 1995, c. 1, §6, is amended to
8 read:

9 **5. Maine Campaign Public Financing Act and Maine Campaign Public**
10 **Financing Fund.** To administer and ensure the effective implementation of the Maine
11 ~~Clean Election Campaign Public Financing Act~~ and the Maine ~~Clean Election Campaign~~
12 ~~Public Financing Fund~~ according to Title 21-A, chapter 14; and

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

15 **3. Signing petitions.** Once an alternative registration signature statement is on file
16 with the registrar, the voter may authorize any other Maine-registered voter to sign
17 candidate petitions and any Maine ~~Clean Election Campaign Public Financing Act~~ forms
18 under chapter 14 requiring a voter's signature in the presence and at the direction of the
19 voter, except that the individual assisting the voter may not be a candidate, the circulator
20 of the petition or form, the voter's employer or an agent of that employer or an officer or
21 agent of the voter's union. In addition to using the voter's signature stamp or signing for
22 the voter, the individual assisting the voter must print and sign the individual's own name
23 and residence address on the petition or form and attest that the individual is signing on
24 the voter's behalf. This method of signing satisfies the requirements in this Title that
25 voters personally sign candidate petitions.

26 **Sec. 4. 21-A MRSA §1004-B**, as enacted by PL 2009, c. 302, §3, is amended to
27 read:

28 **§1004-B. Enforcement of penalties assessed by the commission**

29 The commission staff shall collect the full amount of any penalty and the return of
30 Maine ~~Clean Election Campaign Public Financing Act~~ funds under chapter 14 required
31 by the commission to be returned for a violation of the statutes or rules administered by
32 the commission and has all necessary powers to carry out these duties. Failure to pay the
33 full amount of any penalty assessed by the commission or return of Maine ~~Clean Election~~
34 ~~Campaign Public Financing Act~~ funds is a civil violation by the candidate, treasurer,
35 party committee, political action committee or other person. Thirty days after issuing the
36 notice of penalty or order for the return of funds, the commission shall report to the
37 Attorney General the name of any person who has failed to pay the full amount of any
38 penalty or to return Maine ~~Clean Election Campaign Public Financing Act~~ funds unless
39 the commission has provided an extended deadline for payment. The Attorney General
40 shall enforce the violation in a civil action to collect the full outstanding amount of the

1 penalty or order for the return of Maine ~~Clean Election Campaign~~ Campaign Public Financing Act
2 funds. This action must be brought in the Superior Court for Kennebec County or the
3 District Court, 7th District, Division of Southern Kennebec.

4 **Sec. 5. 21-A MRSA §1013-A, sub-§1, ¶C**, as amended by PL 2015, c. 350, §4,
5 is further amended to read:

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

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

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

25 **Sec. 6. 21-A MRSA §1121**, as enacted by IB 1995, c. 1, §17, is amended to read:

26 **§1121. Short title**

27 This chapter may be known and cited as the "Maine ~~Clean Election Campaign~~ Campaign Public
28 Financing Act."

29 **Sec. 7. 21-A MRSA §1122, sub-§§1, 4, 5 and 6**, as enacted by IB 1995, c. 1,
30 §17, are amended to read:

31 **1. Certified candidate.** "Certified candidate" means a candidate running for
32 Governor, State Senator or State Representative who chooses to participate in the Maine
33 ~~Clean Election Campaign~~ Campaign Public Financing Act and who is certified as a Maine ~~Clean~~
34 ~~Election Campaign~~ Campaign Public Financing Act candidate under section 1125, subsection 5.

35 **4. Fund.** "Fund" means the Maine ~~Clean Election Campaign~~ Campaign Public Financing Fund
36 established in section 1124.

37 **5. Nonparticipating candidate.** "Nonparticipating candidate" means a candidate
38 running for Governor, State Senator or State Representative who does not choose to
39 participate in the Maine ~~Clean Election Campaign~~ Campaign Public Financing Act and who is not

1 seeking to be certified as a Maine ~~Clean Election~~ Campaign Public Financing Act
2 candidate under section 1125, subsection 5.

3 **6. Participating candidate.** "Participating candidate" means a candidate who is
4 running for Governor, State Senator or State Representative who is seeking to be certified
5 as a Maine ~~Clean Election~~ Campaign Public Financing Act candidate under section 1125,
6 subsection 5.

7 **Sec. 8. 21-A MRSA §1123**, as enacted by IB 1995, c. 1, §17, is amended to read:

8 **§1123. Alternative campaign financing option**

9 This chapter establishes an alternative campaign financing option available to
10 candidates running for Governor, State Senator and State Representative. This alternative
11 campaign financing option is available to candidates for elections to be held beginning in
12 the year 2000. The commission shall administer this Act and the fund. Candidates
13 participating in the Maine ~~Clean Election~~ Campaign Public Financing Act must also
14 comply with all other applicable election and campaign laws and regulations.

15 **Sec. 9. 21-A MRSA §1124**, as amended by IB 2015, c. 1, §14, is further amended
16 to read:

17 **§1124. The Maine Campaign Public Financing Fund established; sources of funding**

18 **1. Established.** The Maine ~~Clean Election~~ Campaign Public Financing Fund is
19 established to finance the election campaigns of certified Maine ~~Clean Election~~
20 Campaign Public Financing Act candidates running for Governor, State Senator and State
21 Representative and to pay administrative and enforcement costs of the commission
22 related to this Act. The fund is a special, dedicated, nonlapsing fund and any interest
23 generated by the fund is credited to the fund. The commission shall administer the fund.

24 **2. Sources of funding.** The following must be deposited in the fund:

25 A. The qualifying contributions and additional qualifying contributions required
26 under section 1125 when those contributions are submitted to the commission;

27 B. Three million dollars of the revenues from the taxes imposed under Title 36,
28 Parts 3 and 8 and credited to the General Fund, transferred to the fund by the State
29 Controller on or before January 1st of each year, beginning January 1, 1999. These
30 revenues must be offset in an equitable manner by an equivalent reduction in tax
31 expenditures as defined in Title 36, section 199-A, subsection 2. This section may
32 not affect the funds distributed to the Local Government Fund under Title 30-A,
33 section 5681-;

34 C. Revenue from a tax checkoff program allowing a resident of the State who files a
35 tax return with the State Tax Assessor to designate that \$3 be paid into the fund. In
36 the case of a joint return, each spouse may designate that \$3 be paid. The State Tax
37 Assessor shall report annually the amounts designated for the fund to the State
38 Controller, who shall transfer that amount to the fund;

- 1 D. Seed money contributions remaining unspent after a candidate has been certified
2 as a Maine ~~Clean Election Campaign~~ Campaign Public Financing Act candidate;
- 3 E. Fund revenues that were distributed to a Maine ~~Clean Election Campaign~~ Public
4 Financing Act candidate and that remain unspent after the candidate has lost a
5 primary election or after all general elections;
- 6 F. Other unspent fund revenues distributed to any Maine ~~Clean Election Campaign~~ Campaign
7 Public Financing Act candidate who does not remain a candidate throughout a
8 primary or general election cycle;
- 9 G. Voluntary donations made directly to the fund; and
- 10 H. Fines collected under section 1020-A, subsection 4-A and section 1127.

11 **4. Report on fund amount; operating margin.** By January 1st of each year the
12 commission shall provide to the Legislature and the Governor a report of its projection of
13 the revenues and expenditures of the Maine ~~Clean Election Campaign~~ Campaign Public Financing
14 Fund for the subsequent 4-year period. The commission shall include in the report an
15 operating margin of 20% to ensure sufficient funds in the event of higher-than-expected
16 participation in the Maine ~~Clean Election Campaign~~ Public Financing Act. If any such
17 report shows that the projected revenue for the subsequent 4-year period exceeds the
18 projected expenses for that 4-year period plus the 20% operating margin, the commission
19 shall notify the Legislature and the Governor and request that the amount of expected
20 funding that exceeds the expected demand on the fund plus the operating margin be
21 transferred to the General Fund. The Department of Administrative and Financial
22 Services, Bureau of Revenue Services shall assist the commission with revenue
23 projections required by this subsection. If at any time the commission determines that
24 projected revenue is not sufficient to cover the projected demand for funds in the 4-year
25 period plus the operating margin, the commission may submit legislation to request
26 additional funding.

27 **Sec. 10. 21-A MRSA §1125, sub-§1**, as amended by PL 2011, c. 389, §51, is
28 further amended to read:

29 **1. Declaration of intent.** A participating candidate must file a declaration of intent
30 to seek certification as a Maine ~~Clean Election Campaign~~ Campaign Public Financing Act candidate
31 and to comply with the requirements of this chapter. The declaration of intent must be
32 filed with the commission prior to or during the qualifying period, except as provided in
33 subsection 11, according to forms and procedures developed by the commission.
34 Qualifying contributions collected more than 5 business days before the declaration of
35 intent has been filed will not be counted toward the eligibility requirement in subsection
36 3.

37 **Sec. 11. 21-A MRSA §1125, sub-§2-A**, as amended by IB 2015, c. 1, §16, is
38 further amended to read:

39 **2-A. Seed money restrictions.** To be eligible for certification, a participating
40 candidate may collect and spend only seed money contributions subsequent to becoming
41 a candidate and prior to certification. A participating candidate may not solicit, accept or

1 collect seed money contributions after certification as a Maine ~~Clean Election Campaign~~
2 Public Financing Act candidate.

3 A. All goods and services received prior to certification must be paid for with seed
4 money contributions, except for goods and services that are excluded from the
5 definition of contribution in section 1012, subsection 2, paragraph B. It is a violation
6 of this chapter for a participating candidate to use fund revenues received after
7 certification to pay for goods and services received prior to certification.

8 B. Prior to certification, a participating candidate may obligate an amount greater
9 than the seed money collected, but may only receive that portion of goods and
10 services that has been paid for or will be paid for with seed money. A participating
11 candidate who has accepted contributions or made expenditures that do not comply
12 with the seed money restrictions under this chapter may petition the commission to
13 remain eligible for certification as a Maine ~~Clean Election Campaign~~ Public
14 Financing Act candidate in accordance with rules of the commission, if the failure to
15 comply was unintentional and does not constitute a significant infraction of these
16 restrictions.

17 C. Upon requesting certification, a participating candidate shall file a report of all
18 seed money contributions and expenditures. If the candidate is certified, any unspent
19 seed money will be deducted from the amount distributed to the candidate as
20 provided in subsection 8-F.

21 **Sec. 12. 21-A MRSA §1125, sub-§3-A**, as enacted by IB 2015, c. 1, §19, is
22 amended to read:

23 **3-A. Additional qualifying contributions.** Participating candidates may collect and
24 submit to the commission additional qualifying contributions at the times specified in
25 subsection 8-E. The commission shall credit a candidate with either one qualifying
26 contribution or one additional qualifying contribution, but not both, from any one
27 contributor during the same election cycle. If any candidate collects and submits to the
28 commission qualifying contributions or additional qualifying contributions that cannot be
29 credited pursuant to this subsection, those qualifying contributions or additional
30 qualifying contributions may be refunded to the contributor or deposited into the Maine
31 ~~Clean Election Campaign~~ Public Financing Fund at the discretion of the candidate.

32 **Sec. 13. 21-A MRSA §1125, sub-§5**, as amended by IB 2015, c. 1, §20, is
33 further amended to read:

34 **5. Certification of Maine Campaign Public Financing Act candidates.** Upon
35 receipt of a final submittal of qualifying contributions by a participating candidate, the
36 executive director of the commission shall determine whether the candidate has:

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

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

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

- 1 D. Not accepted contributions, except for seed money contributions, and otherwise
2 complied with seed money restrictions;
- 3 D-1. Not run for the same office as a nonparticipating candidate in a primary election
4 in the same election year;
- 5 D-2. Not been found to have made a material false statement in a report or other
6 document submitted to the commission;
- 7 D-3. Not otherwise substantially violated the provisions of this chapter or chapter 13;
- 8 D-4. Not failed to pay any civil penalty assessed by the commission under this Title,
9 except that a candidate has 3 business days from the date of the request for
10 certification to pay the outstanding penalty and remain eligible for certification;
- 11 D-5. Not submitted any fraudulent qualifying contributions or any falsified
12 acknowledgement forms for qualifying contributions or seed money contributions;
13 and
- 14 E. Otherwise met the requirements for participation ~~in this Act~~ under this chapter.

15 The executive director shall certify a candidate complying with the requirements of this
16 section as a Maine ~~Clean Election~~ Campaign Public Financing Act candidate as soon as
17 possible after final submittal of qualifying contributions and other supporting documents
18 required under subsection 4 but no later than 3 business days for legislative candidates
19 and 5 business days for gubernatorial candidates. The executive director may take
20 additional time if further investigation is necessary to verify compliance with this Act as
21 long as the commission notifies the candidate regarding the anticipated schedule for
22 conclusion of the investigation. A candidate or other interested person may appeal the
23 decision of the executive director to the members of the commission in accordance with
24 subsection 14.

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

28 **Sec. 14. 21-A MRSA §1125, sub-§14**, as amended by PL 2011, c. 389, §59, is
29 further amended to read:

30 **14. Appeals.** A candidate who has been denied certification as a Maine ~~Clean~~
31 ~~Election~~ Campaign Public Financing Act candidate by the commission's executive
32 director, the opponent of a candidate who has been granted certification as a Maine ~~Clean~~
33 ~~Election~~ Campaign Public Financing Act candidate or other interested persons may
34 challenge a certification decision by the executive director as follows.

35 A. A challenger may appeal to the commission within 7 days of the certification
36 decision. The appeal must be in writing and must set forth the reasons for the appeal.

37 B. Within 5 days after an appeal is properly made and after notice is given to the
38 challenger and any opponent, the commission shall hold a hearing, except that the
39 commission may extend this period upon agreement of the challenger and the
40 candidate whose certification is the subject of the appeal, or in response to the request
41 of either party upon a showing of good cause. The appellant has the burden of

1 proving that the certification decision was in error as a matter of law or was based on
2 factual error. The commission must rule on the appeal within 5 business days after
3 the completion of the hearing.

4 C. A challenger may appeal the decision of the commission in paragraph B by
5 commencing an action in Superior Court within 5 days of the date of the
6 commission's decision. The action must be conducted in accordance with Rule 80C
7 of the Maine Rules of Civil Procedure, except that the court shall issue its written
8 decision within 20 days of the date of the commission's decision. Any aggrieved
9 party may appeal the decision of the Superior Court by filing a notice of appeal
10 within 3 days of that decision. The record on appeal must be transmitted to the Law
11 Court within 3 days after the notice of appeal is filed. After filing the notice of
12 appeal, the parties have 4 days to file briefs and appendices with the clerk of the
13 court. The court shall consider the case as soon as possible after the record and briefs
14 have been filed and shall issue its decision within 14 days of the decision of the
15 Superior Court.

16 D. A candidate whose certification as a Maine ~~Clean Election Campaign Public~~
17 ~~Financing~~ Act candidate is reversed on appeal must return to the commission any
18 unspent revenues distributed from the fund. If the commission or court finds that an
19 appeal was made frivolously or to cause delay or hardship, the commission or court
20 may require the moving party to pay costs of the commission, court and opposing
21 parties, if any.

22 **Sec. 15. 21-A MRSA §1126**, as amended by PL 2001, c. 465, §7, is further
23 amended to read:

24 **§1126. Commission to adopt rules**

25 The commission shall adopt rules to ensure effective administration of this chapter.
26 These rules must include but must not be limited to procedures for obtaining qualifying
27 contributions, certification as a Maine ~~Clean Election Campaign Public Financing~~ Act
28 candidate, circumstances involving special elections, vacancies, recounts, withdrawals or
29 replacements, collection of revenues for the fund, distribution of fund revenue to certified
30 candidates, return of unspent fund disbursements, disposition of equipment purchased
31 with ~~clean election~~ Maine Campaign Public Financing Act funds and compliance with ~~the~~
32 ~~Maine Clean Election Act~~ this chapter. Rules of the commission required by this section
33 are major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

34 **Sec. 16. 21-A MRSA §1127, sub-§2**, as enacted by IB 1995, c. 1, §17, is
35 amended to read:

36 **2. Class E crime.** A person who willfully or knowingly violates this chapter or rules
37 of the commission or who willfully or knowingly makes a false statement in any report
38 required by this chapter commits a Class E crime and, if certified as a Maine ~~Clean~~
39 ~~Election~~ Campaign Public Financing Act candidate, must return to the fund all amounts
40 distributed to the candidate.

41 **Sec. 17. 21-A MRSA §1128**, as amended by PL 2009, c. 190, Pt. B, §3, is further
42 amended to read:

