

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2020

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Legislative Document

No. 1869

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S.P. 641

In Senate, December 23, 2019

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### **An Act To Clarify the Financial Reporting Responsibilities of Political Action Committees and Ballot Question Committees**

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Submitted by the Commission on Governmental Ethics and Election Practices pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 19, 2019. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator LUCHINI of Hancock.

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

2 **Sec. 1. 21-A MRSA §1052, sub-§2**, as amended by PL 2007, c. 443, Pt. A, §27,  
3 is further amended to read:

4 **2. Committee.** "Committee" means any political action committee, as defined in  
5 this subchapter, or any ballot question committee required to be registered under section  
6 1056-B and includes any agent of a political action committee or ballot question  
7 committee.

8 **Sec. 2. 21-A MRSA §1052-A**, as amended by PL 2015, c. 408, §2, is further  
9 amended to read:

10 **§1052-A. Registration**

11 A political action committee shall register with the commission and amend its  
12 registration as required by this section. A registration is not timely filed unless it contains  
13 all the information required in this section.

14 **1. Deadlines to file and amend registrations.** A political action committee shall  
15 register and file amendments with the commission according to the following schedule.

16 A. A political action committee as defined under section 1052, subsection 5,  
17 paragraph A, subparagraph (1) or (4) that receives contributions or makes  
18 expenditures in the aggregate in excess of \$1,500 and a political action committee as  
19 defined under section 1052, subsection 5, paragraph A, subparagraph (5) that receives  
20 contributions or makes expenditures in the aggregate in excess of \$5,000 for the  
21 purpose of influencing the nomination or election of any candidate to political office  
22 shall register with the commission within 7 days of exceeding the applicable amount.

23 B. A political action committee shall amend the registration within 10 days of a  
24 change in the information that political action committees are required to disclose  
25 under this section.

26 C. A political action committee shall file an updated registration form between  
27 January 1st and March 1st of each year in which a general election is held. The  
28 commission may waive the updated registration requirement for a newly registered  
29 political action committee or other registered political action committee if the  
30 commission determines that the requirement would cause an administrative burden  
31 disproportionate to the public benefit of the updated information.

32 **2. Disclosure of treasurer and officers.** A political action committee must have a  
33 treasurer and a principal officer. The same individual may not serve in both positions.  
34 The political action committee's registration must contain the names and addresses of the  
35 following individuals:

36 A. The treasurer of the political action committee;

37 B. A principal officer of the political action committee;

1 C. Any other individuals who are primarily responsible for making decisions for the  
2 political action committee;

3 D. The individuals who are primarily responsible for raising contributions for the  
4 political action committee; and

5 E. The names of any other candidates or Legislators who have a significant role in  
6 fund-raising or decision-making for the political action committee.

7 **3. Other disclosure requirements.** A political action committee's registration must  
8 also include the following information:

9 A. A statement indicating the specific candidates, categories of candidates or  
10 campaigns that the political action committee expects to support or oppose;

11 B. If the political action committee is formed to influence the election of a single  
12 candidate, the name of that candidate;

13 C. The form or structure of the organization, such as a voluntary association,  
14 membership organization, corporation or any other structure by which the political  
15 action committee functions, and the date of origin or incorporation of the  
16 organization;

17 D. If the political action committee has been formed by one or more for-profit or  
18 nonprofit corporations or other organizations for the purpose of initiating or  
19 influencing a campaign, the names and addresses of the corporations or  
20 organizations;

21 E. The name of the account that the political action committee will use to deposit  
22 contributions and make expenditures pursuant to section 1054, and the name and  
23 address of the financial institution at which the account is established; and

24 F. Any additional information reasonably required by the commission to monitor the  
25 activities of political action committees in this State under this subchapter.

26 **4. Acknowledgment of responsibilities.** The treasurer, principal officer and any  
27 other individuals who are primarily responsible for making decisions for the political  
28 action committee shall submit a signed statement acknowledging their responsibilities on  
29 a form prescribed by the commission within 10 days of registering the political action  
30 committee. The signed acknowledgment statement serves as notification of the  
31 responsibilities of the political action committee to comply with the financial reporting,  
32 record-keeping and other requirements of this chapter and the potential personal liability  
33 of the treasurer and principal officer for civil penalties assessed against the political  
34 action committee. The commission shall notify the political action committee of any  
35 individual who has failed to submit the acknowledgment statement. Failure to return the  
36 acknowledgment statement is a violation of this subchapter for which a fine of \$100 may  
37 be assessed against the political action committee. This section also applies to  
38 individuals named in an updated or amended registration required by this subsection who  
39 have not previously submitted an acknowledgment statement for the political action  
40 committee with the commission.

41 **5. Resignation and removal.** An individual who resigns as the treasurer, principal  
42 officer or primary ~~decision-maker~~ decision maker of a political action committee shall

1 submit a written resignation statement to the commission. An individual's resignation is  
2 not effective until the commission receives the written resignation statement from the  
3 individual. If an individual is involuntarily removed from the position of treasurer,  
4 principal officer or primary ~~decision-maker~~ decision maker by the political action  
5 committee, the political action committee shall notify the commission in writing that the  
6 individual has been removed from the position. The commission may prescribe forms for  
7 these purposes.

8 **Sec. 3. 21-A MRSA §1053-A**, as amended by PL 2011, c. 389, §35, is further  
9 amended to read:

10 **§1053-A. Municipal elections**

11 ~~Organizations that qualify~~ If an organization qualifies as a political action committees  
12 committee under section 1052, subsection 5 or is a ballot question committee required to  
13 register under section 1056-B and that receive organization receives contributions or  
14 ~~make~~ makes expenditures to influence a municipal campaign in towns or cities with a  
15 population of 15,000 or more ~~shall, that organization must~~ register and file reports with  
16 the municipal clerk as required by Title 30-A, section 2502. The reports must be filed in  
17 accordance with the reporting schedule in section 1059 and must contain the information  
18 listed in section 1060. A ~~political action~~ committee registered with the commission and  
19 that receives contributions or makes expenditures relating to a municipal election shall  
20 file a copy of the report containing such contributions or expenditures with the clerk in  
21 the subject municipality. The commission retains the sole authority to prescribe the  
22 content of all reporting forms. The commission does not have responsibility to oversee  
23 the filing of registrations or campaign finance reports relating to municipal campaigns;  
24 ~~except that the commission shall enforce late filing penalties under section 1020-A,~~  
25 ~~subsection 3 upon the request of a municipal clerk.~~ If a municipal clerk becomes aware  
26 of a potential violation of this subchapter that the clerk considers to be substantial, the  
27 clerk may refer the matter to the commission for enforcement. The commission may  
28 conduct an investigation if the information referred by the municipal clerk shows  
29 sufficient grounds for believing that a violation may have occurred. After conducting the  
30 investigation, if the commission determines that a violation of this subchapter has  
31 occurred, the commission may assess penalties provided in this subchapter.

32 **Sec. 4. 21-A MRSA §1053-B**, as amended by PL 2013, c. 334, §21, is further  
33 amended to read:

34 **§1053-B. Out-of-state ~~political action~~ committees**

35 An organization that is registered as a political action committee, ballot question  
36 committee or political committee with the Federal Election Commission or a jurisdiction  
37 outside of this State shall register and file reports with the commission in accordance with  
38 this subchapter upon receiving contributions or making expenditures to initiate or  
39 influence a campaign in the State in excess of the amounts that would require registration  
40 under section 1052-A. The committee is not required to register and file reports if the  
41 committee's only financial activity within the State is to make contributions to candidates,  
42 party committees, political action committees or ballot question committees registered

1 with the commission or a municipality and the committee has not raised and accepted any  
2 contributions during the calendar year to influence a campaign in this State.

3 **Sec. 5. 21-A MRSA §1054**, as amended by PL 2013, c. 334, §22, is further  
4 amended to read:

5 **§1054. Appointment of treasurer; depository**

6 Any political action committee required to register under section 1052-A must  
7 appoint a treasurer before registering with the commission. A registered political action  
8 committee shall deposit all funds contributed to or received by the political action  
9 committee for the purpose of influencing a campaign in a single account in a financial  
10 institution and shall finance all of the political action committee's expenditures to  
11 influence the election through the account. If the political action committee was formed  
12 by another organization, that other organization may pay its employees for their  
13 campaign-related activities on behalf of the political action committee through its own  
14 treasury, rather than through the single account established by the political action  
15 committee and used for campaign expenditures.

16 **Sec. 6. 21-A MRSA §1054-A**, as enacted by PL 2013, c. 334, §23, is amended to  
17 read:

18 **§1054-A. Duties and liabilities of the treasurer, principal officer and primary**  
19 **decision maker of political action committees**

20 **1. Duties of the treasurer.** The treasurer of the political action committee shall  
21 ensure that the political action committee files and amends the political action  
22 committee's registration, files complete and accurate financial reports with the  
23 commission and maintains the political action committee's records as required by this  
24 chapter and the commission's rules. The treasurer is responsible for the political action  
25 committee's performance of these duties regardless of whether the treasurer has delegated  
26 administrative tasks related to these duties to another individual.

27 **2. Joint responsibilities of the treasurer and principal officer.** The treasurer and  
28 the principal officer are jointly responsible for the political action committee's  
29 compliance with the requirements of this chapter and the commission's rules. The  
30 treasurer and principal officer are responsible for accepting and responding to notices and  
31 correspondence from the commission on behalf of the political action committee.

32 **3. Participation in spending decisions.** An individual who is the treasurer,  
33 principal officer or primary decision maker of the political action committee and who has  
34 signed the acknowledgment statement required by section 1052-A, subsection 4 is  
35 deemed to have participated in the spending decisions of the political action committee  
36 until the commission receives the individual's resignation statement or a notice of the  
37 individual's involuntary removal from the political action committee.

38 **4. Financial liability.** The commission may hold the treasurer and principal officer  
39 jointly and severally liable with the political action committee for any fines assessed  
40 against the political action committee for violations of this chapter and chapter 14. In

1 addition, the commission may assess all or part of a fine against any other agent of the  
2 political action committee who is directly responsible for a violation, including  
3 individuals who have resigned or have been removed involuntarily from the political  
4 action committee. In deciding whether to assess a penalty against a treasurer, principal  
5 officer or any other individual, the commission may consider, among other things,  
6 whether the individual had actual knowledge of the action that constituted the violation or  
7 had authorized that action and whether the violation was intentional or caused by an error  
8 by a vendor or someone outside the control of the political action committee.

9 **Sec. 7. 21-A MRSA §1054-B**, as amended by PL 2019, c. 21, §1, is further  
10 amended to read:

11 **§1054-B. Payments to Legislators by political action committees**

12 If a Legislator is a principal officer or treasurer of a political action committee or is  
13 one of the individuals primarily responsible for raising contributions or making decisions  
14 for the political action committee, the political action committee may not compensate the  
15 Legislator for services provided to the political action committee. The political action  
16 committee may not make payments or distribute, loan, advance, deposit or gift money or  
17 anything of value to or compensate a business owned or operated by the Legislator. The  
18 political action committee may reimburse the Legislator for expenses incurred in the  
19 proper performance of the duties of the Legislator, for purchases made on behalf of the  
20 political action committee and for travel expenses associated with volunteering for the  
21 political action committee. Allowable reimbursement for expenses does not include  
22 payments from the political action committee that are determined by the commission to  
23 be for the purpose of personal financial enrichment of the Legislator. The funds of the  
24 political action committee may not be commingled with the personal funds of the  
25 Legislator or the funds of a business owned or operated by the Legislator.

26 **Sec. 8. 21-A MRSA §1056-A**, as enacted by PL 1993, c. 715, §3, is repealed.

27 **Sec. 9. 21-A MRSA §1056-B, sub-§1**, as amended by PL 2009, c. 190, Pt. A,  
28 §20, is further amended to read:

29 **1. Filing requirements.** A report required by this section must be filed with the  
30 commission according to the reporting schedule in section 1059. After completing all  
31 financial activity, the ballot question committee shall terminate its campaign finance  
32 reporting in the same manner provided in section 1061. The ballot question committee  
33 shall file each report required by this section through an electronic filing system  
34 developed by the commission unless granted a waiver under section 1059, subsection 5.

35 **Sec. 10. 21-A MRSA §1057**, as amended by PL 2015, c. 408, §§4 and 5, is  
36 further amended to read:

37 **§1057. Records Required records for political action committees**

38 Any political action committee that is required to register under section 1052-A or  
39 1053-B shall keep records as provided in this section for 4 years following the election to  
40 which the records pertain.

1           **1. Details of records.** The treasurer of a political action committee shall record a  
2 detailed account of:

3           A. All expenditures made to or in behalf of a candidate, campaign or political action  
4 committee;

5           B. The identity of each candidate, campaign or political action committee;

6           C. The office sought by a candidate and the district ~~he~~ the candidate seeks to  
7 represent, for candidates ~~which~~ that a political action committee has made an  
8 expenditure to or in behalf of; and

9           D. The date of each expenditure.

10           **2. Receipts.** The treasurer of a political action committee shall retain a vendor  
11 invoice or receipt stating the particular goods or services purchased for every expenditure  
12 in excess of \$50 to initiate or influence a campaign.

13           **3. Record of contributions.** The treasurer of a political action committee shall keep  
14 a record of all contributions to the political action committee, by name and mailing  
15 address, of each donor and the amount and date of the contribution. This provision does  
16 not apply to aggregate contributions from a single donor of \$50 or less for an election or  
17 referendum campaign. When any donor's contributions to a political action committee  
18 exceed \$50, the record must include the aggregate amount of all contributions from that  
19 donor.

20           **4. Account statements.** The treasurer of a political action committee shall keep  
21 account statements relating to the deposit of funds of the political action committee  
22 required by section 1054.

23           **Sec. 11. 21-A MRSA §1058**, as amended by PL 2013, c. 334, §26, is repealed.

24           **Sec. 12. 21-A MRSA §1061**, as amended by PL 2013, c. 334, §29, is further  
25 amended to read:

26           **§1061. Dissolution of committees**

27           Whenever any ~~political action~~ committee determines that it will no longer accept any  
28 contributions or make any expenditures, the committee shall file a termination report that  
29 includes all financial activity from the end date of the previous reporting period through  
30 the date of termination with the commission. The committee shall dispose of any surplus  
31 prior to termination. In the termination report, the committee shall report any outstanding  
32 loan, debt or obligation in the manner prescribed by the commission.

33           **Sec. 13. 21-A MRSA §1062-A, sub-§5**, as amended by PL 2013, c. 334, §31, is  
34 further amended to read:

35           **5. Request for a commission determination.** If the commission staff finds that a  
36 ~~political action~~ committee has failed to file a report required under this subchapter, the  
37 commission staff shall mail a notice to the treasurer of the ~~political action~~ committee  
38 within 3 business days following the filing deadline informing the treasurer that a report



1 was not received. If a ~~political-action~~ committee files a report required under this  
2 subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the  
3 ~~political-action~~ committee whose report is not received by 11:59 p.m. on the deadline  
4 date, informing the treasurer of the commission staff finding of violation and preliminary  
5 penalty calculated under subsection 3 and providing the treasurer with an opportunity to  
6 request a determination by the commission. A request for determination must be made  
7 within 14 calendar days of receipt of the commission's notice. A principal officer or  
8 treasurer requesting a determination may either appear in person or designate a  
9 representative to appear on the principal officer's or treasurer's behalf or submit a sworn  
10 statement explaining the mitigating circumstances for consideration by the commission.  
11 A final determination by the commission may be appealed to the Superior Court in  
12 accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil  
13 Procedure, Rule 80C.

14 **Sec. 14. 21-A MRSA §1062-A, sub-§6**, as amended by PL 2009, c. 302, §9, is  
15 further amended to read:

16 **6. Final notice of penalty.** After a commission meeting, notice of the final  
17 determination of the commission and the penalty, if any, imposed pursuant to this  
18 subchapter must be sent to the principal officer and the treasurer of the ~~political-action~~  
19 committee.

20 If a determination is not requested, the preliminary penalty calculated by the commission  
21 staff is final. The commission staff shall mail final notice of the penalty to the principal  
22 officer and to the treasurer of the ~~political-action~~ committee. A detailed summary of all  
23 notices must be provided to the commission.

24 **Sec. 15. 21-A MRSA §1062-A, sub-§7**, as amended by PL 2007, c. 443, Pt. A,  
25 §41, is further amended to read:

26 **7. List of late-filing committees.** The commission shall prepare a list of the names  
27 of ~~political-action~~ committees that are late in filing a report required under section 1059,  
28 subsection 2, paragraph B, subparagraph (1) or section 1059, subsection 2, paragraph C  
29 or D within 30 days of the date of the election and shall make that list available for public  
30 inspection.

31 **SUMMARY**

32 This bill clarifies which statutes contained in the Maine Revised Statutes, Title 21-A,  
33 chapter 13, subchapter 4 relate to both political action committees and ballot question  
34 committees and which relate only to political action committees.