

MAINE STATE LEGISLATURE

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SAC
ROS.

L.D. 194

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MAJORITY

VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE

SENATE

130TH LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 82, L.D. 194, "An Act To Prohibit Contributions, Expenditures and Participation by Foreign Government-owned Entities To Influence Referenda"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

Sec. 1. 21-A MRSA §1052, sub-§3, as amended by PL 2011, c. 389, §§27 and 28, is further amended to read:

3. Contribution. "Contribution" includes:

A. A gift, subscription, loan, advance or deposit of money or anything of value made to a ~~political action~~ committee, except that a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

B. A contract, promise or agreement, expressed or implied whether or not legally enforceable, to make a contribution to a ~~political action~~ committee;

C. Any funds received by a ~~political action~~ committee that are to be transferred to any candidate, committee, campaign or organization for the purpose of initiating or influencing a campaign; or

D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a ~~political action~~ committee that is used by the ~~political action~~ committee to initiate or influence a campaign.

Sec. 2. 21-A MRSA §1060-A, sub-§4, ¶E, as enacted by PL 2017, c. 418, §4, is amended to read:

E. The names of the 5 largest sources of funds received by the major contributor during the period beginning 6 months prior to the first contribution made to the recipient committee and ending on the date of the filing of the report. This paragraph does not apply to funds received by the major contributor that are restricted to purposes that are unrelated to a people's veto referendum or direct initiative campaign in the State; and

COMMITTEE AMENDMENT

1 **Sec. 3. 21-A MRSA §1060-A, sub-§4, ¶F**, as enacted by PL 2017, c. 418, §4, is
2 amended to read:

3 F. A statement indicating whether the major contributor is exempt from taxation under
4 the United States Internal Revenue Code of 1986 and a list of any governmental
5 jurisdictions within the United States in which the major contributor has filed campaign
6 finance reports during the previous 12 months; and

7 **Sec. 4. 21-A MRSA §1060-A, sub-§4, ¶G** is enacted to read:

8 G. A statement by the chief executive officer of the major contributor or, if the major
9 contributor does not have a chief executive officer, a statement by a responsible officer
10 of the major contributor swearing or affirming after due inquiry that the major
11 contributor was not a foreign national as defined in section 1064, subsection 1,
12 paragraph B on the date or dates that the major contributor made the contributions to
13 the recipient committee. The major contributor must submit a copy of the statement
14 required by this paragraph to the recipient committee. Notwithstanding section 1004,
15 subsection 2 and section 1004-A, subsection 5, a person who makes a false statement
16 under this paragraph is subject to prosecution for false swearing under Title 17-A,
17 section 452.

18 **Sec. 5. 21-A MRSA §1064** is enacted to read:

19 **§1064. Foreign national contributions and expenditures to influence referenda**
20 **prohibited**

21 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
22 following terms have the following meanings.

23 A. "Communication" includes a communication through broadcasting stations, cable
24 television systems, newspapers, magazines, campaign signs or other outdoor
25 advertising facilities, publicly accessible sites on the Internet, direct mail or other
26 similar types of general public political advertising or through flyers, handbills, bumper
27 stickers or other nonperiodical publications.

28 B. "Foreign national" means:

29 (1) A foreign government; and

30 (2) A firm, partnership, corporation, association, organization or other entity with
31 respect to which a foreign government holds, owns, controls or otherwise has direct
32 or indirect beneficial ownership of 10% or more of the total equity, outstanding
33 voting shares, membership units or other applicable ownership interests.

34 C. "Referendum" means any of the following:

35 (1) A people's veto referendum under the Constitution of Maine, Article IV, Part
36 Third, Section 17;

37 (2) A direct initiative of legislation under the Constitution of Maine, Article IV,
38 Part Third, Section 18;

39 (3) A popular vote on an amendment to the Constitution of Maine under the
40 Constitution of Maine, Article X, Section 4;

(4) A referendum vote on a measure enacted by the Legislature and expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19;

(5) The ratification of the issue of bonds by the State or any state agency; and

(6) Any county or municipal referendum.

2. Contributions and expenditures by foreign nationals prohibited. A foreign national may not make, directly or indirectly, a contribution or an expenditure to influence a referendum.

3. Participation by foreign nationals prohibited. A foreign national may not direct, dictate, control or directly or indirectly participate in the decision-making process of any person with regard to that person's activities to influence a referendum, such as decisions concerning the making of contributions or expenditures to influence a referendum.

4. Solicitation or acceptance of contributions from foreign nationals prohibited. A person may not knowingly solicit, accept or receive a contribution described in subsection 2 from a foreign national.

5. Substantial assistance prohibited. A person may not knowingly provide substantial assistance, with or without compensation:

A. In the making, solicitation, acceptance or receipt of a contribution prohibited by subsection 2; or

B. In the making of an expenditure prohibited by subsection 2.

6. Communications by foreign nationals to influence policy; required disclosure. Whenever a foreign national expends funds to finance a communication not otherwise prohibited by this section with the intent to influence the public or any state, county or local official or agency regarding the formulation, adoption or amendment of any state or local government policy or regarding the political or public interest of or government relations with a foreign country or a foreign political party, the communication must clearly and conspicuously contain the words "Sponsored by" immediately followed by the name of the foreign national that made the expenditure and a statement identifying that foreign national as a "foreign government" or a "foreign government-owned entity."

7. Violation; penalty. Notwithstanding section 1004, subsection 1, a person that violates this section commits a civil violation for which a fine of not more than \$5,000 or the amount of the contribution or expenditure involved in the violation, whichever is greater, may be adjudged. In assessing a penalty under this section, the commission shall consider, among other things, whether the violation was intentional and whether the person who committed the violation attempted to conceal or misrepresent the identity of the relevant foreign national.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the committee, strikes and replaces all of the bill except the emergency preamble and clause and:

1 1. Defines a "foreign national" as a foreign government or an entity with respect to
2 which a foreign government holds, owns, controls or has direct or indirect beneficial
3 ownership of 10% or more of the total equity, outstanding voting shares, membership units
4 or other applicable ownership interests;

5 2. Prohibits a foreign national from making, directly or indirectly, a contribution or an
6 expenditure to influence a referendum;

7 3. Prohibits a foreign national from directing, dictating, controlling or directly or
8 indirectly participating in the decision-making process of any person with regard to that
9 person's activities to influence a referendum, such as decisions concerning the making of
10 contributions or expenditures to influence a referendum;

11 4. Prohibits a person from knowingly soliciting, accepting or receiving a prohibited
12 contribution from a foreign national;

13 5. Prohibits a person from knowingly providing substantial assistance in the making,
14 solicitation, acceptance or receipt of a prohibited contribution by a foreign national or
15 knowingly providing substantial assistance in the making of a prohibited expenditure by a
16 foreign national;

17 6. Requires the chief executive officer or a responsible officer of a major contributor
18 to a campaign for a direct initiative of legislation or for a people's veto referendum to swear
19 or affirm, subject to the penalty for false swearing, that after due inquiry the major
20 contributor was not a foreign national on the date or dates that the major contributor made
21 the contributions aggregating in excess of \$100,000 for the purpose of initiating or
22 influencing the campaign;

23 7. Requires, whenever a foreign national expends money to finance a communication
24 to influence government officials or the public on issues of state or local policy or foreign
25 relations, that the communication include a clear and conspicuous statement naming the
26 foreign national as a sponsor of the communication; and

27 8. Clarifies, in the definition of "contribution" applicable to campaigns to initiate or to
28 influence referenda, that a contribution may be made either to a political action committee
29 or to a ballot question committee.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 194

LR 368(02)

An Act To Prohibit Contributions, Expenditures and Participation by Foreign Government-owned Entities To Influence Referenda

Fiscal Note for Bill as Amended by Committee Amendment "A"(S-125)

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Minor revenue increase - General Fund

Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional fine and/or fee revenue will increase General Fund and dedicated revenue by minor amounts.

Fiscal Detail and Notes

Any additional costs to the Commission on Governmental Ethics and Election Practices as a result of changes to rules regarding campaign finance reporting and contributions are anticipated to be minor and can be absorbed within existing budgeted resources.