

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

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Legislative Document

No. 1658

H.P. 1229

House of Representatives, May 5, 2021

An Act To Increase Campaign Finance Transparency and Accountability in Municipal Elections

Received by the Clerk of the House on May 3, 2021. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LOOKNER of Portland.
Cosponsored by Senator CHIPMAN of Cumberland and
Representatives: SYLVESTER of Portland, TALBOT ROSS of Portland, WARREN of
Hallowell, WOOD of Portland, Senator: DAUGHTRY of Cumberland.

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

2 **Sec. 1. 21-A MRSA §1011, sub-§3**, as amended by PL 2013, c. 334, §2, is further
3 amended to read:

4 **3. Role of the municipal clerk; commission.** For candidates for municipal office in
5 towns or cities with a population of 50,000 or more, the commission is responsible for the
6 registration of candidates, receipt of reports and distribution of information or forms. For
7 candidates for municipal office in towns or cities with a population of less than 50,000, the
8 municipal clerk is responsible for any duty assigned to the commission in this subchapter
9 related to the registration of candidates, receipt of reports and distribution of information
10 or forms, unless otherwise provided. Notwithstanding any other deadline set forth in this
11 chapter, candidates shall file their reports by the close of business on the day of the filing
12 deadline established for the office of the municipal clerk. The commission retains the sole
13 authority to prescribe the content of all reporting forms. The commission does not have
14 responsibility to oversee the filing of registrations or campaign finance reports relating to
15 municipal campaigns in towns or cities with a population of less than 50,000, except that
16 the commission has the discretion to conduct investigations and assess penalties under
17 subsection 3-A.

18 **Sec. 2. 21-A MRSA §1011, sub-§3-A**, as enacted by PL 2013, c. 334, §2, is
19 amended to read:

20 **3-A. Enforcement by the commission.** If a clerk of a town or city that is governed
21 by this chapter pursuant to Title 30-A, section 2502 becomes aware of a potential violation
22 of this chapter that the clerk considers to be substantial, the clerk ~~may~~ shall refer the matter
23 to the commission for enforcement. Substantial violations include, but are not limited to,
24 accepting contributions in excess of the limitations of section 1015 and failing to file a
25 report that substantially complies with the disclosure requirements of section 1017. The
26 commission has the discretion to conduct an investigation if the information referred by the
27 municipal clerk shows sufficient grounds for believing that a violation may have occurred.
28 After conducting the investigation, if the commission determines that a violation of this
29 chapter has occurred, the commission may assess penalties provided in this chapter.

30 **Sec. 3. 21-A MRSA §1011, sub-§4**, as enacted by PL 2011, c. 389, §5 and affected
31 by §62, is amended to read:

32 **4. Exemptions.** Exemptions for municipal candidates from the reporting requirements
33 of this subchapter are governed by this subsection.

34 A. At the time a municipal candidate in a town or city with a population of 50,000 or
35 more registers under section 1013-A, the candidate may notify the commission in
36 writing that the candidate will not accept contributions, make expenditures or incur
37 financial obligations associated with that person's candidacy. At the time a municipal
38 candidate in a town or city with a population of less than 50,000 registers under section
39 1013-A, the candidate may notify the municipal clerk in writing that the candidate will
40 not accept contributions, make expenditures or incur financial obligations associated
41 with that person's candidacy. A candidate who provides this written notice is not
42 required to appoint a treasurer or to meet the filing requirements of this section as long
43 as the candidate complies with the commitment.

1 B. The notice provided to the commission or the municipal clerk in paragraph A may
2 be revoked. A written revocation must be presented to the commission or the municipal
3 clerk before the candidate may accept contributions, make expenditures or incur
4 obligations associated with that person's candidacy. A candidate who has filed a notice
5 with the commission or the municipal clerk under paragraph A and accepts
6 contributions, makes expenditures or incurs obligations associated with that person's
7 candidacy prior to filing a revocation may be assessed a penalty of \$10 for each
8 business day that the revocation is late, up to a maximum of \$500. This penalty may
9 be imposed in addition to the penalties assessed under other sections of this Title.

10 **Sec. 4. 21-A MRSA §1017, sub-§3-A**, as amended by PL 2019, c. 323, §8, is
11 further amended to read:

12 **3-A. Other candidates.** A treasurer of a municipal candidate in a town or city with a
13 population of 50,000 or more, and a treasurer of a candidate for state or county office other
14 than the office of Governor shall file reports with the commission and a municipal
15 candidate candidate in a town or city with a population of less than 50,000 shall file reports
16 with the municipal clerk as follows. Once the first required report has been filed, each
17 subsequent report must cover the period from the end date of the prior report filed.

18 A. In any calendar year in which an election for the candidate's particular office is not
19 scheduled, when any candidate or candidate's political committee has received
20 contributions in excess of \$500 or made or authorized expenditures in excess of \$500,
21 reports must be filed no later than 11:59 p.m. on July 15th of that year and January 15th
22 of the following calendar year. These reports must include all contributions made to
23 and all expenditures made or authorized by or on behalf of the candidate or the treasurer
24 of the candidate as of the end of the preceding month, except those covered by a
25 previous report.

26 B. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on
27 which an election is held and must be complete as of the 14th day before that date. If
28 a report was not filed under paragraph A, the report required under this paragraph must
29 cover all contributions and expenditures through the 14th day before the election.

30 C. If the candidate has an opponent who is on the ballot or who is a declared write-in
31 candidate, any single contribution of \$1,000 or more received or any single expenditure
32 of \$1,000 or more made after the 14th day before any election and more than 24 hours
33 before 11:59 p.m. on the day of any election must be reported within 24 hours of that
34 contribution or expenditure. The candidate or treasurer is not required to include in
35 this report expenditures for overhead expenses or compensation paid to an employee
36 or other member of the campaign staff who has received payments at regular intervals
37 that have been disclosed in previously filed campaign finance reports. As used in this
38 paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments,
39 taxes, insurance premiums or similar administrative expenses.

40 D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on
41 which an election is held and must be complete for the filing period as of the 35th day
42 after that date.

43 D-1. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on
44 which a general election is held and must be complete as of the 49th day before that
45 date, ~~except that this report is not required for candidates for municipal office.~~

1 E. Unless further reports will be filed in relation to a later election in the same calendar
2 year, the disposition of any surplus or deficit in excess of \$100 shown in the reports
3 described in paragraph D must be reported as provided by this paragraph. The treasurer
4 of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually
5 with the commission within 15 days following the end of the 2nd and 4th quarters of
6 the State's fiscal year, complete as of the last day of the quarter, until the surplus is
7 disposed of or the deficit is liquidated. The first report under this paragraph is not
8 required until the 15th day of the period beginning at least 90 days from the date of the
9 election. The reports will be considered timely if filed electronically or in person with
10 the commission on that date or postmarked on that date. The reports must set forth any
11 contributions for the purpose of liquidating the deficit, in the same manner as
12 contributions are set forth in other reports required in this section.

13 F. Reports with respect to a candidate who seeks nomination by petition must be filed
14 on the same dates that reports must be filed by a candidate for the same office who
15 seeks that nomination by primary election.

16 **Sec. 5. 21-A MRSA §1017-A, sub-§8**, as amended by PL 2011, c. 389, §19 and
17 affected by §62, is further amended to read:

18 **8. Municipal elections.** When a party committee makes contributions or expenditures
19 on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy
20 of the reports required by this section with the clerk in that candidate's municipality. The
21 municipality shall post each report received on the municipality's publicly accessible
22 website within 24 hours after the applicable deadline.

23 **Sec. 6. 21-A MRSA §1019-B, sub-§4**, as amended by PL 2019, c. 323, §17, is
24 further amended to read:

25 **4. Report required; content; rules.** A person, party committee or political action
26 committee that makes any independent expenditure in excess of \$250 during any one
27 candidate's election shall file a report with the commission. In the case of a municipal
28 election in a town or city with a population of less than 50,000, the report must be filed
29 with the municipal clerk and the clerk shall post each report received on the municipality's
30 publicly accessible website within 24 hours after the applicable deadline.

31 A. A report required by this subsection must be filed with the commission according
32 to a reporting schedule that the commission shall establish by rule that takes into
33 consideration existing campaign finance reporting requirements. Rules adopted
34 pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375,
35 subchapter 2-A.

36 B. A report required by this subsection must contain an itemized account of each
37 expenditure in excess of \$250 in any one candidate's election, the date and purpose of
38 each expenditure and the name of each payee or creditor. The report must state whether
39 the expenditure is in support of or in opposition to the candidate and must include,
40 under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath
41 or affirmation whether the expenditure is made in cooperation, consultation or concert
42 with, or at the request or suggestion of, the candidate or an authorized committee or
43 agent of the candidate.

1 C. A report required by this subsection must be on a form prescribed and prepared by
2 the commission. A person filing this report may use additional pages if necessary, but
3 the pages must be the same size as the pages of the form. The commission may adopt
4 procedures requiring the electronic filing of an independent expenditure report, as long
5 as the commission receives the statement made under oath or affirmation set out in
6 paragraph B by the filing deadline and the commission adopts an exception for persons
7 who lack access to the required technology or the technological ability to file reports
8 electronically. The commission may adopt procedures allowing for the signed
9 statement to be provisionally filed by facsimile or electronic mail, as long as the report
10 is not considered complete without the filing of the original signed statement.

11 **Sec. 7. 21-A MRSA §1020-A, sub-§3**, as amended by PL 2011, c. 389, §22 and
12 affected by §62, is further amended to read:

13 **3. Municipal campaign finance reports.** Municipal campaign finance reports must
14 be filed, subject to all the provisions of this subchapter, with the municipal clerk ~~on forms~~
15 prescribed by or the Commission on Governmental Ethics and Election Practices on forms
16 prescribed by the commission. The municipal clerk shall send any notice of lateness
17 required by subsection 6 and shall notify the commission of any late reports subject to a
18 penalty.

19 **Sec. 8. 21-A MRSA §1053-A**, as amended by PL 2019, c. 563, §5, is further
20 amended to read:

21 **§1053-A. Municipal elections**

22 If an organization qualifies as a political action committee under section 1052,
23 subsection 5 or is a ballot question committee required to register under section 1056-B
24 and that organization receives contributions or makes expenditures to influence a municipal
25 campaign in towns or cities with a population of 15,000 or more, that organization must
26 register and file reports ~~with the municipal clerk~~ as required by Title 30-A, section 2502.
27 The reports must be filed in accordance with the reporting schedule in section 1059 and
28 must contain the information listed in section 1060. A committee registered with the
29 commission and that receives contributions or makes expenditures relating to a municipal
30 election shall file a copy of the report containing such contributions or expenditures with
31 the clerk in the subject municipality. The commission retains the sole authority to prescribe
32 the content of all reporting forms. ~~The commission does not have responsibility to oversee~~
33 is responsible for the oversight of the filing of registrations or campaign finance reports
34 relating to municipal campaigns in a town or city with a population of 50,000 or more. If
35 a municipal clerk becomes aware of a potential violation of this subchapter that the clerk
36 considers to be substantial, the clerk ~~may~~ shall refer the matter to the commission for
37 enforcement. The commission may conduct an investigation if the information referred by
38 the municipal clerk shows sufficient grounds for believing that a violation may have
39 occurred. After conducting the investigation, if the commission determines that a violation
40 of this subchapter has occurred, the commission may assess penalties provided in this
41 subchapter.

42 **Sec. 9. 30-A MRSA §2502, sub-§1**, as amended by PL 2011, c. 389, §60 and
43 affected by §62, is further amended to read:

44 **1. Reports by candidates.** A candidate or a political action committee seeking to
45 influence the election of a candidate for municipal office of a town or city with a population

1 of 50,000 or more is governed by Title 21-A, sections 1001 to 1020-A. A candidate or a
2 political action committee seeking to influence the election of a candidate for municipal
3 office of a town or city with a population of at least 15,000 or more and less than 50,000 is
4 governed by Title 21-A, sections 1001 to 1020-A, except that registrations and campaign
5 finance reports must be filed with the municipal clerk instead of the Commission on
6 Governmental Ethics and Election Practices. A town or city with a population of less than
7 15,000 may choose to be governed by Title 21-A, sections 1001 to 1020-A by vote of its
8 legislative body at least 90 days before an election for office. A town or city that votes to
9 adopt those provisions may revoke that decision, but it must do so at least 90 days before
10 an election subject to those sections.

11 **Sec. 10. 30-A MRSA §2502, sub-§2**, as amended by PL 2011, c. 389, §60 and
12 affected by §62, is further amended to read:

13 **2. Municipal referenda campaigns.** Municipal referenda campaigns in towns or
14 cities with a population of 50,000 or more are governed by Title 21-A, chapter 13,
15 subchapter 4, and registrations and reports of political action committees and ballot
16 question committees must be filed with the Commission on Governmental Ethics and
17 Election Practices. Municipal referenda campaigns in towns or cities with a population of
18 at least 15,000 or more and less than 50,000 are governed by Title 21-A, chapter 13,
19 subchapter 4. ~~The, and~~ registrations and reports of political action committees and ballot
20 question committees must be filed with the municipal clerk. A town or city with a
21 population of less than 15,000 may choose to be governed by Title 21-A, chapter 13,
22 subchapter 4 by vote of its legislative body at least 90 days before a referendum election.
23 A town or city that votes to adopt those provisions may revoke that decision, but it must do
24 so at least 90 days before an election subject to that subchapter.

25 **Sec. 11. 30-A MRSA §2502, sub-§4** is enacted to read:

26 **4. Campaign finance report posting.** A town or city with a population of less than
27 50,000 shall post each campaign finance report received on the municipality's publicly
28 accessible website within 24 hours after the applicable deadline for filing campaign finance
29 reports.

30 SUMMARY

31 This bill requires a candidate or a political action committee seeking to influence the
32 election of a candidate for municipal office of a town or city with a population of 50,000
33 or more to submit registrations and campaign finance reports with the Commission on
34 Governmental Ethics and Election Practices instead of with the municipal clerk, and it
35 requires a town or city with a population of less than 50,000 to post campaign finance
36 reports on the municipality's publicly accessible website within 24 hours after the deadline
37 for filing campaign finance reports. This bill also makes the commission responsible for
38 oversight of the filing of registrations and campaign finance reports relating to municipal
39 referenda campaigns in a town or city with a population of 50,000 or more. The bill also
40 makes it a requirement for the municipal clerk to refer a potential violation to the
41 commission. Current law makes it permissive.