

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1590

S.P. 621

In Senate, April 11, 2023

An Act to Require Disclosure of Campaign Funding Sources

Reference to the Committee on Veterans and Legal Affairs suggested 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 BENNETT of Oxford.
Cosponsored by Representative: RIELLY of Westbrook.

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

2 **Sec. 1. 21-A MRSA §1017-A, sub-§1-A** is enacted to read:

3 **1-A. Disclosure of sources of original funds.** A party committee shall comply with
4 the requirements of section 1064.

5 **Sec. 2. 21-A MRSA §1064** is enacted to read:

6 **§1064. Sources of campaign funds**

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

9 **A. "Covered committee"** means a committee required to file a report under section
10 1017-A or 1059 that makes, in one election cycle, more than \$50,000 in expenditures
11 and receives a contribution from a covered contributor.

12 **B. "Covered contributor"** means a person that contributes more than \$10,000 to a
13 covered committee in an election cycle.

14 **C. "Election cycle"** means the 2-year period beginning the day after a general election
15 and ending the day of the next general election.

16 **D. "Original funds"** means an asset over which a covered contributor has legal control
17 and to which the person holds title that the person received from:

18 (1) Salary, wages or other earned income from employment;

19 (2) Investment income, sale of assets or bequests;

20 (3) Distributions from a partnership, limited liability company or trust in which the
21 person holds a legal interest;

22 (4) Commercial transactions; or

23 (5) Membership dues, union dues or other similar periodic payments to an
24 organization, association or group as long as the payments do not exceed \$10,000
25 per year per person.

26 **E. "Pass-through funds"** means funds over which a covered contributor has legal
27 control and to which the person holds title that are not original funds.

28 **2. Notice to disclose or opt out.** Upon receipt of a contribution from a covered
29 contributor, a covered committee shall notify the covered contributor in writing that the
30 funds may be used to make expenditures to influence a campaign in this State and that
31 information about the sources of pass-through funds may be required and reported under
32 this section. The notice must provide that the covered contributor has 21 days in which the
33 covered contributor may state that those funds are original funds; the funds are pass-
34 through funds or the covered contributor opts out of transferring the funds out to influence
35 a campaign in this State. If a covered contributor states that the funds include pass-through
36 funds, the covered contributor shall provide the covered committee with the sources of the
37 original funds totaling at least as much as the contribution as well as the identity of all 3rd
38 parties that transferred the original funds from the origin of the funds until the funds were
39 received by the covered contributor. A covered contributor that received donations
40 exceeding the amount of the covered contribution may choose which sources of original
41 funds to report as long as the covered contributor reports a total amount of original funds

1 at least equal to the amount of the covered contribution and all persons that previously
2 transferred those original funds from the origin of the funds. A covered committee shall
3 maintain records of this information for at least 5 years and provide the records to the
4 commission upon request. Any covered contributor that has not confirmed the source of
5 original funds within 21 days is presumed to have opted out of allowing the contribution to
6 be used to influence a campaign in this State. Notice provided pursuant to this subsection
7 must be on a form prescribed by the commission. The covered committee shall submit a
8 copy of the notice sent to the covered contributor to the commission.

9 **3. Restrictions.** A contribution from a covered contributor may be used or transferred
10 by the covered committee immediately upon the covered committee's receipt of
11 information required under subsection 2. A covered committee may not use or transfer
12 funds received from a covered contributor for the purpose of influencing a campaign in this
13 State if the covered contributor has opted out or is presumed to have opted out pursuant to
14 subsection 2. Funds for which the covered contributor has opted out pursuant to subsection
15 2 must be segregated from funds in the covered committee's campaign account described
16 in section 1054. This subsection may not be construed to prohibit the use or transfer of
17 such funds for other purposes.

18 **4. Disclosure of sources of original funds.** A covered committee shall disclose the
19 following information received from a covered contributor pursuant to subsection 2 in an
20 appropriate report required under section 1017-A or 1059:

21 A. The name and mailing address of each covered contributor during the election
22 cycle. For a covered contributor that has contributed more than \$10,000 and that is an
23 individual, the disclosure must also include the covered contributor's occupation and
24 place of business;

25 B. The date and amount of original funds received from each covered contributor
26 described in paragraph A; and

27 C. The identity of all 3rd parties that transferred the original funds from the origin of
28 the original funds until the funds were received by the covered committee.

29 A covered committee is not responsible for reporting the information required by this
30 subsection for any funds for which a covered contributor has opted out pursuant to
31 subsection 2. In making the required reports under this subsection, a covered committee
32 may rely upon the information it received pursuant to subsection 2, unless the covered
33 committee knows or has reason to know that the information is false or incomplete.

34 **5. Top 3 funders; original sources.** For a communication made by a covered
35 committee that is an independent expenditure, as defined in section 1019-B, subsection 1,
36 or a communication subject to section 1055-A, the communication must include the
37 statement described in section 1014, subsection 2-B. The top 3 funders included in the
38 statement must be the funders that are the sources, since the day following the most recent
39 general election day, of the highest dollar amounts of original funds directly or indirectly
40 contributed to the covered committee making the communication. Section 1014,
41 subsection 2-B, paragraph E does not apply to the statement required by this subsection.

42 **6. Prior funds.** For the purposes of disclosing original sources under this section, a
43 covered contributor that received funds that are not its own original funds prior to January

1, 2024 or that has held an amount of funds at least equal to \$10,000 without interruption for a period of 5 years, may consider those funds its own original funds.

7. Penalties. Notwithstanding section 1004-A, subsections 4 and 5 and section 1014, subsection 4, the commission may assess a penalty for a violation of this section of not more than \$20,000, in addition to any penalty assessed under sections 1020-A and 1062-A. When determining the amount of any penalty, the commission shall consider the amount of the original funds not disclosed, the harm suffered by the public from the lack of disclosure and the covered committee's compliance record. If the commission determines that adjusting the statutory maximum penalty amount would serve the purposes of this section, it may recommend adjustments in a report to the joint standing committee of the Legislature having jurisdiction over campaign finance reporting matters.

8. Rules. The commission shall adopt rules to implement this section, including the content and timing of the notice described in subsection 2 and report described in subsection 4. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 21-A, section 1064, subsection 7 takes effect January 1, 2025.

SUMMARY

This bill requires certain party committees, political action committees and ballot question committees to notify and seek consent from a contributor of more than \$10,000 in writing that the contribution may be used to make expenditures to influence a political campaign in this State. The bill requires the committee to report to the Commission on Governmental Ethics and Election Practices information about the identity of certain contributors and 3rd parties and the amount of the contribution used to make expenditures to influence a political campaign in this State. The bill contains other requirements regarding the source of contributions, required reporting relating to the top 3 funders and penalties for violations.