

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1698

H.P. 1087

House of Representatives, April 18, 2023

**An Act to Eliminate Private Donations to the Maine Clean Election  
Fund**

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

*Robert B. Hunt*  
ROBERT B. HUNT  
Clerk

Presented by Representative ANDREWS of Paris.

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

2 **Sec. 1. 1 MRSA §1015-A, sub-§1, ¶A**, as enacted by PL 2019, c. 534, §4, is  
3 amended to read:

4 A. "Contribution" has the same meaning as in Title 21-A, section 1012, subsection 2  
5 ~~and includes seed money contributions as defined in Title 21-A, section 1122,~~  
6 ~~subsection 9;~~ and, with respect to political action committees and ballot question  
7 committees, includes contributions as defined in Title 21-A, section 1052, subsection  
8 3. ~~"Contribution" does not include qualifying contributions as defined in Title 21-A,~~  
9 ~~section 1122, subsection 7.~~

10 **Sec. 2. 21-A MRSA §1122, sub-§7**, as amended by PL 2019, c. 323, §26, is  
11 repealed.

12 **Sec. 3. 21-A MRSA §1122, sub-§9**, as amended by PL 2007, c. 571, §10, is  
13 repealed.

14 **Sec. 4. 21-A MRSA §1124, sub-§2, ¶A**, as amended by IB 2015, c. 1, §14, is  
15 repealed.

16 **Sec. 5. 21-A MRSA §1124, sub-§2, ¶C**, as amended by IB 2015, c. 1, §14, is  
17 repealed.

18 **Sec. 6. 21-A MRSA §1124, sub-§2, ¶D**, as enacted by IB 1995, c. 1, §17, is  
19 repealed.

20 **Sec. 7. 21-A MRSA §1124, sub-§2, ¶F**, as enacted by IB 1995, c. 1, §17, is  
21 amended to read:

22 F. Other unspent fund revenues distributed to any Maine Clean Election Act candidate  
23 who does not remain a candidate throughout a primary or general election cycle; and

24 **Sec. 8. 21-A MRSA §1124, sub-§2, ¶G**, as enacted by IB 1995, c. 1, §17, is  
25 repealed.

26 **Sec. 9. 21-A MRSA §1125, sub-§1**, as amended by PL 2019, c. 323, §27, is further  
27 amended to read:

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

35 **Sec. 10. 21-A MRSA §1125, sub-§2**, as amended by IB 2015, c. 1, §15, is further  
36 amended to read:

37 **2. Contribution limits prohibited for participating candidates.** Subsequent to  
38 becoming a candidate as defined by section 1, subsection 5 and prior to certification, a  
39 participating candidate may not accept contributions, ~~except for seed money contributions.~~  
40 ~~A participating candidate must limit the candidate's total seed money contributions to the~~  
41 ~~following amounts:~~

- 1           A. ~~Two hundred thousand dollars for a gubernatorial candidate;~~
- 2           B. ~~Three thousand dollars for a candidate for the State Senate; or~~
- 3           C. ~~One thousand dollars for a candidate for the State House of Representatives.~~

4           The commission may, by rule, revise these amounts to ensure the effective implementation  
5           of this chapter.

6           **Sec. 11. 21-A MRSA §1125, sub-§2-A**, as amended by PL 2019, c. 323, §28, is  
7           repealed.

8           **Sec. 12. 21-A MRSA §1125, sub-§2-C**, as enacted by PL 2021, c. 132, §10, is  
9           repealed.

10          **Sec. 13. 21-A MRSA §1125, sub-§3**, as repealed and replaced by PL 2019, c. 323,  
11          §29, is repealed.

12          **Sec. 14. 21-A MRSA §1125, sub-§3-A**, as amended by PL 2019, c. 323, §30, is  
13          repealed.

14          **Sec. 15. 21-A MRSA §1125, sub-§3-B**, as enacted by PL 2019, c. 323, §31, is  
15          repealed.

16          **Sec. 16. 21-A MRSA §1125, sub-§4**, as amended by PL 2009, c. 363, §4, is  
17          repealed.

18          **Sec. 17. 21-A MRSA §1125, sub-§5**, as amended by IB 2015, c. 1, §20, is further  
19          amended to read:

20          **5. Certification of Maine Clean Election Act candidates.** ~~Upon receipt of a final~~  
21          ~~submittal of qualifying contributions by a participating candidate, the~~ The executive  
22          director of the commission shall determine whether ~~the~~ a participating candidate has:

- 23           A. Signed and filed a declaration of intent to participate in this Act;
- 24           B. ~~Submitted the appropriate number of valid qualifying contributions;~~
- 25           C. Qualified as a candidate by petition or other means no later than 5 business days  
26           after the end of the qualifying period;
- 27           D. Not accepted contributions, ~~except for seed money contributions, and otherwise~~  
28           ~~complied with seed money restrictions;~~
- 29           D-1. Not run for the same office as a nonparticipating candidate in a primary election  
30           in the same election year;
- 31           D-2. Not been found to have made a material false statement in a report or other  
32           document submitted to the commission;
- 33           D-3. Not otherwise substantially violated the provisions of this chapter or chapter 13;
- 34           D-4. Not failed to pay any civil penalty assessed by the commission under this Title,  
35           except that a candidate has 3 business days from the date of the request for certification  
36           to pay the outstanding penalty and remain eligible for certification; and
- 37           D-5. ~~Not submitted any fraudulent qualifying contributions or any falsified~~  
38           ~~acknowledgement forms for qualifying contributions or seed money contributions; and~~
- 39           E. Otherwise met the requirements for participation in this Act.

1 The executive director shall certify a candidate complying with the requirements of this  
2 section as a Maine Clean Election Act candidate as soon as possible ~~after final submittal of~~  
3 ~~qualifying contributions and other supporting documents required under subsection 4~~ but  
4 no later than 3 business days for legislative candidates and 5 business days for gubernatorial  
5 candidates after compliance has been determined. The executive director may take  
6 additional time if further investigation is necessary to verify compliance with this Act as  
7 long as the commission notifies the candidate regarding the anticipated schedule for  
8 conclusion of the investigation. A candidate or other interested person may appeal the  
9 decision of the executive director to the members of the commission in accordance with  
10 subsection 14.

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

14 **Sec. 18. 21-A MRSA §1125, sub-§5-A**, as amended by PL 2021, c. 132, §11, is  
15 further amended to read:

16 **5-A. Revocation of certification.** The certification of a certified candidate may be  
17 revoked at any time if the commission determines that the candidate or an agent of the  
18 candidate:

- 19 ~~A. Did not submit the required number of valid qualifying contributions;~~
- 20 B. Failed to qualify as a candidate by petition or other means;
- 21 ~~C. Submitted any fraudulent qualifying contributions or qualifying contributions that~~  
22 ~~were not made by the named contributor;~~
- 23 ~~D. Misrepresented to a contributor the purpose of the qualifying contribution or~~  
24 ~~obtaining the contributor's signature on the receipt and acknowledgement form;~~
- 25 E. Failed to fully comply with the seed money restrictions;
- 26 F. Knowingly accepted any contributions, including any in-kind contributions, or used  
27 funds other than fund revenues distributed under this chapter to make campaign-related  
28 expenditures without the permission of the commission;
- 29 G. Knowingly made a false statement or material misrepresentation in any report or  
30 other document required to be filed under this chapter or chapter 13; or
- 31 H. Otherwise substantially violated the provisions of this chapter or chapter 13; ~~or~~
- 32 ~~I. As a gubernatorial candidate, failed to properly report seed money contributions as~~  
33 ~~required by this section.~~

34 The determination to revoke the certification of a candidate must be made by a vote of the  
35 members of the commission after an opportunity for a hearing. A candidate whose  
36 certification is revoked shall return all unspent funds to the commission within 3 days of  
37 the commission's decision and may be required to return all funds distributed to the  
38 candidate. In addition to the requirement to return funds, the candidate may be subject to  
39 a civil penalty under section 1127. The candidate may appeal the commission's decision  
40 to revoke certification in the same manner provided in subsection 14, paragraph C.

41 **Sec. 19. 21-A MRSA §1125, sub-§7-A**, as repealed and replaced by PL 2011, c.  
42 522, §2 and affected by §4, is amended to read:

1           **7-A. Deposit into account; release of bank records.** A candidate or a committee  
2 authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the  
3 fund ~~and all seed money contributions~~ in an account, referred to in this subsection as a  
4 "campaign account," with a bank or other financial institution. The campaign funds must  
5 be segregated from, and may not be commingled with, any other funds.

6           A. A participating candidate shall provide to the commission a signed written  
7 authorization allowing the bank or other financial institution administering a campaign  
8 account to release to the commission all records held by that bank or institution  
9 pertaining to the campaign account, including, but not limited to, campaign account  
10 statements, records of payments or transfers from the campaign account and deposits  
11 of funds to the campaign account.

12           B. The executive director of the commission or its auditor, during an audit or during  
13 an investigation authorized by the commission or the chair of the commission of  
14 potential noncompliance with the requirements of this chapter, chapter 13 or a rule of  
15 the commission, may request that a candidate provide the records of a campaign  
16 account. If the candidate fails to comply with the request within 30 days of receiving  
17 it, the executive director or auditor may use the authorization obtained pursuant to  
18 paragraph A to obtain the records directly from the bank or other financial institution.

19           **Sec. 20. 21-A MRSA §1125, sub-§8-B, ¶B,** as enacted by IB 2015, c. 1, §25, is  
20 amended to read:

21           B. For a contested primary election, the amount of revenues distributed is as follows:

22           (1) The initial distribution of revenues is \$400,000 per candidate; and

23           ~~(2) For each increment of 800 additional qualifying contributions a candidate~~  
24 ~~collects and submits pursuant to subsection 8-E, not to exceed a total of 3,200~~  
25 ~~additional qualifying contributions, the supplemental distribution of revenues to~~  
26 ~~that candidate is \$150,000; and~~

27           (3) The total amount of revenues distributed for a contested primary election may  
28 not exceed \$1,000,000 per candidate.

29           **Sec. 21. 21-A MRSA §1125, sub-§8-B, ¶D,** as enacted by IB 2015, c. 1, §25, is  
30 amended to read:

31           D. For a contested general election, the amount of revenues distributed is as follows:

32           (1) The initial distribution of revenues is \$600,000 per candidate; and

33           ~~(2) For each increment of 1,200 additional qualifying contributions a candidate~~  
34 ~~collects and submits pursuant to subsection 8-E, not to exceed a total of 9,600~~  
35 ~~additional qualifying contributions, the supplemental distribution of revenues to~~  
36 ~~that candidate is \$175,000; and~~

37           (3) The total amount of revenues distributed for a contested general election may  
38 not exceed \$2,000,000 per candidate.

39           **Sec. 22. 21-A MRSA §1125, sub-§8-C, ¶D,** as enacted by IB 2015, c. 1, §25, is  
40 amended to read:

41           D. For a contested general election, the amount of revenues distributed is as follows:

- 1 (1) The initial distribution of revenues is \$20,000 per candidate; and  
2 ~~(2) For each increment of 45 additional qualifying contributions a candidate~~  
3 ~~collects and submits pursuant to subsection 8-E, not to exceed a total of 360~~  
4 ~~additional qualifying contributions, the supplemental distribution of revenues to~~  
5 ~~that candidate is \$5,000; and~~  
6 (3) The total amount of revenues distributed for a contested general election may  
7 not exceed \$60,000 per candidate.

8 **Sec. 23. 21-A MRSA §1125, sub-§8-D, ¶D,** as enacted by IB 2015, c. 1, §25, is  
9 amended to read:

10 D. For a contested general election, the amount of revenues distributed is as follows:

- 11 (1) The initial distribution of revenues is \$5,000 per candidate; and  
12 ~~(2) For each increment of 15 additional qualifying contributions a candidate~~  
13 ~~collects and submits pursuant to subsection 8-E, not to exceed a total of 120~~  
14 ~~additional qualifying contributions, the supplemental distribution of revenues to~~  
15 ~~that candidate is \$1,250; and~~  
16 (3) The total amount of revenues distributed for a contested general election may  
17 not exceed \$15,000 per candidate.

18 **Sec. 24. 21-A MRSA §1125, sub-§8-E,** as amended by PL 2019, c. 323, §33, is  
19 repealed.

20 **Sec. 25. 21-A MRSA §1125, sub-§8-F,** as enacted by IB 2015, c. 1, §25, is  
21 amended to read:

22 **8-F. Amount of distributions.** On December 1st of each even-numbered year the  
23 commission shall review and adjust the distribution amounts in subsections 8-B to 8-D  
24 based on the Consumer Price Index as reported by the United States Department of Labor,  
25 Bureau of Labor Statistics. If an adjustment is warranted by the Consumer Price Index, the  
26 distribution amounts must be adjusted, rounded to the nearest amount divisible by \$25.  
27 ~~When making adjustments under this subsection, the commission may not change the~~  
28 ~~number of qualifying contributions or additional qualifying contributions required to~~  
29 ~~trigger an initial distribution or an increment of supplemental distribution.~~ The commission  
30 shall post information about the distribution amounts including the date of any adjustment  
31 on its publicly accessible website and include this information with any publication to be  
32 used as a guide for candidates.

33 **Sec. 26. 21-A MRSA §1125, sub-§10,** as amended by IB 2015, c. 1, §26, is further  
34 amended to read:

35 **10. Candidate not enrolled in a party.** An unenrolled candidate for the Legislature  
36 ~~who submits the required number of qualifying contributions and other required documents~~  
37 ~~under subsection 4 by 5:00 p.m. on April 20th preceding the primary election and who is~~  
38 certified is eligible for revenues from the fund in the same amounts and at the same time  
39 as an uncontested primary election candidate and a general election candidate as specified  
40 in subsections 7, 8-C and 8-D. Revenues for the general election must be distributed to the  
41 candidate as specified in subsection 7. An unenrolled candidate for Governor ~~who submits~~  
42 ~~the required number of qualifying contributions and other required documents under~~

1 subsection 4 by 5:00 p.m. on April 1st preceding the primary election and who is certified  
2 is eligible for revenues from the fund in the same amounts and at the same time as an  
3 uncontested primary election gubernatorial candidate and a general election gubernatorial  
4 candidate as specified in subsections 7 and 8-B. Revenues for the general election must be  
5 distributed to the candidate for Governor as specified in subsection 7.

6 **Sec. 27. 21-A MRSA §1125, sub-§13-A**, as amended by IB 2015, c. 1, §27, is  
7 further amended to read:

8 **13-A. Distributions not to exceed amount in fund.** The commission may not  
9 distribute revenues to certified candidates in excess of the total amount of money deposited  
10 in the fund as set forth in section 1124. ~~Notwithstanding any other provisions of this~~  
11 ~~chapter, if the commission determines that the revenues in the fund are insufficient to meet~~  
12 ~~distributions under subsection 8-F, the commission may permit certified candidates to~~  
13 ~~accept and spend contributions, reduced by any seed money contributions, aggregating no~~  
14 ~~more than the applicable contribution limits established by the commission pursuant to~~  
15 ~~section 1015, up to the applicable amounts set forth in subsection 8-F according to rules~~  
16 ~~adopted by the commission.~~

17 **Sec. 28. 21-A MRSA §1126**, as amended by PL 2001, c. 465, §7, is further amended  
18 to read:

19 **§1126. Commission to adopt rules**

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

29 **SUMMARY**

30 This bill eliminates all private donations to the Maine Clean Election Fund, including  
31 seed money and qualifying contributions, funds from the tax checkoff program and  
32 voluntary contributions to the fund.