LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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accountants and the cost ~~shall~~ must be paid by the authority from funds available to it pursuant to this chapter.

Sec. 18. Study. The members of the Maine Educational Loan Authority, referred to in this section as "MELA," shall conduct a study and make recommendations with respect to the issue of whether the Maine Educational Loan Authority should be moved under the auspices of the Finance Authority of Maine or whether other changes to the structure and governance of MELA should be made. In conducting its study, the members of MELA shall consult with the Finance Authority of Maine as to the costs and other factors involved in moving MELA under its auspices. The members of MELA shall also examine the issue of MELA's need for statutory authority to delegate its powers and duties to a nonprofit corporation and recommend whether the language in the Maine Revised Statutes, Title 20-A, section 11417, subsection 1, paragraph H should be retained. A report and recommendations, including any necessary implementing legislation, must be submitted to the joint standing committee of the Legislature having jurisdiction over business and economic development matters no later than January 15, 2001. The joint standing committee of the Legislature having jurisdiction over business and economic development matters may report out legislation on this issue to the First Regular Session of the 120th Legislature.

Sec. 19. Existing rights and obligations. This Act may not in any way impair the contractual rights or obligations, existing on the effective date of this Act, of the Maine Educational Loan Authority or its bondholders or the nonprofit corporation formed under the Maine Revised Statutes, Title 20-A, section 11407 and the former Title 20, section 2237 or its bondholders. This Act may not be construed to affect the exclusion from gross income of interest on any bonds that were issued by either the Maine Educational Loan Authority or the nonprofit corporation formed under Title 20-A, section 11407 and former Title 20, section 2237 prior to the effective date of this Act.

Sec. 20. Retroactivity. Those sections of this Act that enact the Maine Revised Statutes, Title 10, section 363, subsection 8, paragraph B-1 and Title 20-A, section 11407, subsection 2 are retroactive to July 15, 2000.

Sec. 21. Repeal of the Maine Revised Statutes, section 2237. Upon the repeal of the Maine Revised Statutes, Title 20, section 2237, any nonprofit corporation organized at the request of the Governor pursuant to that section is deemed to have been organized at the request of the Governor pursuant to Title 20-A, section 11407.

See title page for effective date.

CHAPTER 729

S.P. 1070 - L.D. 2663

An Act Relating to Reporting Requirements for Political Action Committees on the Flexibility of the Commission on Governmental Ethics and Election Practices to Assess Penalties

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

Sec. 1. 21-A MRSA §1013-A, sub-§1, ¶C, as enacted by PL 1995, c. 384, §1, is amended to read:

C. No later than 10 days after becoming a candidate, as defined in section 1, subsection 5, a candidate for the office of State House of Representatives or Senate shall file in writing a statement declaring ~~either~~ that the candidate agrees to accept voluntary limits on political expenditures or that the candidate does not agree to accept voluntary limits on political expenditures, as specified in section 1015, subsections 7 to 9, or that the candidate has filed a declaration of intent to become certified as a candidate under the Maine Clean Election Act.

The statement filed by a candidate who voluntarily agrees to limit spending must state that the candidate knows the voluntary expenditure limitations as set out in section 1015, subsection 8 and that the candidate is voluntarily agreeing to limit the candidate's political expenditures and those made on behalf of the candidate by the candidate's political committee or committees, the candidate's party and the candidate's immediate family to the amount set by law. The statement must further state that the candidate does not condone and will not solicit any independent expenditures made on behalf of the candidate.

The statement filed by a candidate who does not agree to voluntarily limit political expenditures must state that the candidate does not accept the voluntary expenditure limits as set out in section 1015, subsection 8.

The statement filed by a candidate who has filed a declaration of intent under the Maine Clean Election Act must state that the candidate will be bound by the expenditure limitations imposed by that Act.

Sec. 2. 21-A MRSA §1015, sub-§§1 and 2, as amended by IB 1995, c. 1, §11, are further amended to read:

1. Individuals. ~~An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than $1,000 in any election. Beginning January 1, 1999, an~~ An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than $500 in any election for a gubernatorial candidate or more than $250 in any election for any other candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse.

2. Committees; corporations; associations. ~~A political committee, other committee, corporation or association may not make contributions to a candidate in support of the candidacy of one person aggregating more than $5,000 in any election. Beginning January 1, 1999, a~~ A political committee, other committee, corporation or association may not make contributions to a candidate~~,~~ in support of the candidacy of one person aggregating more than $500 in any election for a gubernatorial candidate or more than $250 in any election for any other candidate.

Sec. 3. 21-A MRSA §1015, sub-§8, as enacted by PL 1995, c. 384, §2, is amended to read:

8. Political expenditure limitation amounts. Total expenditures in any election for legislative office by a candidate who voluntarily agrees to limit campaign expenditures as provided in subsection 7 are as follows:

A. For State Senator, $25,000; ~~and~~

B. For State Representative, $5,000~~.~~; and

C. For State Senator or State Representative as a candidate certified under the Maine Clean Election Act, to the extent authorized by that Act.

Expenditure limits are per election and may not be carried forward from one election to another. For calculation and reporting purposes, the reporting periods established in section 1017 apply.

Sec. 4. 21-A MRSA §1017, sub-§6, as amended by PL 1999, c. 157, §1, is further amended to read:

6. Forms. Reports required by this section must be on forms prescribed, prepared and sent by the commission to the treasurer of each registered candidate at least 7 days before the filing date for the report. Establishment of or amendments to the campaign report filing forms required by this section must be by rule. Persons filing reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse treasurers, committees and other persons who must file reports from otherwise obtaining the forms.

Rules of the commission establishing campaign report filing forms for candidates are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 5. 21-A MRSA §1020-A, sub-§2, as corrected by RR 1995, c. 1, §10, is amended to read:

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid ~~personal emergency such as a personal illness or death in the immediate family~~ emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;

B. An error by the commission staff; ~~or~~

C. Failure to receive notice of the filing deadline~~.~~; or

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sec. 6. 21-A MRSA §1052, sub-§5, ¶A, as amended by PL 1991, c. 839, §27 and affected by §33, is further amended to read:

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;

(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;

(3) Any ~~person who~~ organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and

(4) Any ~~person~~ organization, including any corporation or association, ~~who~~ that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than $1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State; and

Sec. 7. 21-A MRSA §1053, first ¶, as amended by PL 1989, c. 833, §14, is further amended to read:

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of ~~$50~~ $1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, candidate, political committee or another political action committee must register with the commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the commission. These forms must include the following information and any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter:

Sec. 8. 21-A MRSA §1056-B is enacted to read:

§1056-B. Reports of contributions and expenditures by persons

Any person not defined as a political committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality.

1. Filing requirements. A report required by this section must be filed with the commission according to a reporting schedule that the commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059.

2. Content. A report must contain an itemized account of each contribution received and expenditure made aggregating in excess of $100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name of each contributor, payee or creditor. Total contributions or expenditures of less than $500 in any election need not be itemized. The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question.

3. Forms. A report required by this section must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

Sec. 9. 21-A MRSA §1062-A, sub-§2, as enacted by PL 1995, c. 483, §21, is amended to read:

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid ~~personal emergency of the committee treasurer, such as a personal illness or death in the immediate family~~ emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; ~~or~~

B. An error by the commission staff~~.~~; or

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in

accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

See title page for effective date.

CHAPTER 730

H.P. 1937 - L.D. 2680

An Act Concerning Certain Contracts Affected by Electric Industry Restructuring

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the law governing certain contracts affected by electric industry restructuring needs to be modified immediately to address certain unanticipated developments; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. PL 1997, c. 316, §6 is repealed and the following enacted in its place:

Sec. 6. Qualifying facility contracts tied to retail tariffs. Certain contracts for the sale of energy, or energy and capacity, by qualifying facilities contain terms that establish or adjust the purchase rate based upon the retail tariff rate or changes to that retail tariff rate paid by the qualifying facility to the electric utility for its purchases of electricity or upon reference to a particular retail tariff rate or changes in such retail tariff rate. The Legislature finds that after the date of retail access as provided for in this Act, a question may arise as to whether there is a retail tariff rate that provides for a comparable standard for sale of combined generation and transmission or distribution services. Following the implementation of retail access as provided for in this Act, the Public Utilities Commission shall, at the request of a qualifying facility or a utility that is a party to such a contract, establish a contract rate as follows.

1. For contracts that involve arrangements for the simultaneous purchase and sale of electricity:

A. For years in which the utility has sold the output of the qualifying facility contract pursuant to the Maine Revised Statutes, Title 35-A, section 3204, subsection 4 and the qualifying facility has, as of the effective date of this paragraph, contracted for retail power supply, the commission shall establish or adjust the contract rate based on the annual change, determined on a monthly basis, in the average of the total price paid for electric services by all retail customers in the utility's service territory taking service at the same voltage level as the qualifying facility. For purposes of this paragraph, the term "annual charge determined on a monthly basis" means the charge calculated by comparing the applicable figure for the month for which a contract rate is to be established with the applicable figure for the same month in the prior year;

B. For years in which the utility has sold the output of the qualifying facility contract pursuant to Title 35-A, section 3204, subsection 4 and the qualifying facility has not, as of the effective date of this paragraph, contracted for retail power supply, the commission shall establish the contract rate as a rate per kilowatt hour for each month equal to the sum of the average per-kilowatt hour cost to the qualifying facility of its purchases during the same month of transmission and distribution service under all applicable tariffs and of generation service. The qualifying facility shall obtain its generation service through a process that is approved by the commission; and

C. Notwithstanding any other provision of law, for years in which the utility has not sold the output of the qualifying facility contract pursuant to Title 35-A, section 3204, subsection 4, the commission may direct the utility to sell the output of the qualifying facility back to the qualifying facility or otherwise act to place the qualifying facility and utility as close as possible to their positions with respect to the contract prior to the implementation of retail access. In determining the positions of the qualifying facility and the utility with respect to the contract prior to the implementation of retail access, the commission shall, at a minimum, consider and make specific findings with regard to:

(1) Benefits the qualifying facility received under the contract, including any ability to avoid the purchase of standby service and the cost of balancing short-term differences in power generation and use; and

(2) Benefits the utility received under the contract.

To the extent the commission is unable to restore both the qualifying facility and the utility to their positions with respect to the contract prior to the