

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION

July 29, 2005

SECOND REGULAR SESSION

January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR

SECOND SPECIAL SESSION

NON-EMERGENCY LAWS IS

OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR

SECOND REGULAR SESSION

NON-EMERGENCY LAWS IS

AUGUST 23, 2006

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

Penmor Lithographers

Lewiston, Maine

2006

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 15 MRSA §1025-A is enacted to read:

§1025-A. County jail employees

If a court issues an order that a defendant in custody be released, pending trial, on personal recognizance or upon execution of an unsecured appearance bond, whether or not accompanied by one or more conditions under section 1026, subsection 3, an employee of the county jail having custody of the defendant, if authorized to do so by the sheriff, may, without fee, prepare the personal recognizance or bond and take the acknowledgement of the defendant.

Sec. 2. 30-A MRSA §353, as amended by PL 1989, c. 104, Pt. A, §8 and Pt. C, §§8 and 10, is further amended to read:

§353. Officer not to act as attorney or draw papers; employee of jailer not to act as judge or attorney

~~No~~ An officer may ~~not~~ appear before any court as attorney or adviser of any party in an action or draw any writ, complaint, declaration, citation, process or plea for any other person; all such acts are void. ~~No~~ A person employed by the keeper of a jail in any capacity may ~~not~~ exercise any power or duty of a judicial officer ~~or notary public~~ or act as attorney for any person confined in the jail; all such acts are void. Beginning April 15, 2006, if commissioned as a notary public and authorized to do so by the sheriff, an employee of a jail, other than a part-time or full-time corrections officer or a deputy sheriff, may, without fee, exercise any power or duty of a notary public for any person confined in the jail.

Sec. 3. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 30-A, section 353 applies retroactively to February 28, 1989.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 5, 2006.

CHAPTER 542

S.P. 570 - L.D. 1596

An Act Regarding the Maine Clean Election Act

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

Whereas, campaigns for candidates participating in the Maine Clean Election Act seeking election in 2006 are already underway; and

Whereas, proper enforcement is necessary to ensure that funds distributed from the Maine Clean Election Fund are being spent in accordance with the law; 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. 21-A MRSA §1014, sub-§4, as amended by PL 1995, c. 483, §6, is further amended to read:

4. Enforcement. An expenditure, communication or broadcast made within 10 days before the election to which it relates that results in a violation of this section may result in a civil ~~forfeiture~~ fine of no more than \$200. An expenditure, communication or broadcast made more than 10 days before the election that results in a violation of this section may result in a civil ~~forfeiture~~ fine of no more than \$100 if the violation is not corrected within 10 days after the candidate or other person who committed the violation receives notification of the violation from the commission. If the commission determines that a person violated this section with the intent to misrepresent the name or address of the person who made or financed the communication or whether the communication was or was not authorized by the candidate, the commission may impose a fine of no more than \$5,000 against the person responsible for the communication. Enforcement and collection procedures must be in accordance with section 1020-A.

Sec. 2. 21-A MRSA §1017, sub-§8, ¶C, as enacted by PL 1989, c. 504, §§17 and 31, is amended to read:

C. An unrestricted gift to the State. A candidate for municipal office may dispose of a surplus by making a restricted or unrestricted gift to the municipality;

Sec. 3. 21-A MRSA §1125, sub-§6, as amended by PL 2005, c. 301, §31, is further amended to read:

6. Restrictions on contributions and expenditures for certified candidates. After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

Sec. 4. 21-A MRSA §1125, sub-§7-A is enacted to read:

7-A. Deposit into account. The candidate or committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

Sec. 5. 21-A MRSA §1125, sub-§12-A is enacted to read:

12-A. Required records. The treasurer shall obtain and keep:

A. Bank or other account statements for the campaign account covering the duration of the campaign;

B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and

C. A record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee.

The treasurer shall preserve the records for 2 years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the commission upon its request.

Sec. 6. 21-A MRSA §1127, sub-§1, as amended by PL 2005, c. 301, §33, is further amended to read:

1. Civil fine. In addition to any other penalties that may be applicable, a person who violates any

provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds. This fine is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

Sec. 7. Appropriations and allocations. The following appropriations and allocations are made.

GOVERNMENTAL ETHICS AND ELECTION PRACTICES, COMMISSION ON 0414

Maine Clean Election Fund

Initiative: Establishes one Planning and Research Assistant project position from May 1, 2006 to January 31, 2007 to monitor candidates' expenditures of Maine Clean Election Act funds for compliance with expenditure guidelines and to encourage complete reporting of candidates' financial activities.

OTHER SPECIAL REVENUE

FUNDS	2005-06	2006-07
Personal Services	\$12,623	\$40,042
All Other	(\$12,623)	(\$40,042)
OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$0	\$0

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 6, 2006.