

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

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FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
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representatives of the commissioner may, without search warrant, enter at reasonable times any real property, other than a building, where potatoes are grown, stored, packed, loaded for shipment or handled, and may enter any building, either with the consent of the owner, lessee, occupant or agent or pursuant to an administrative search warrant. Notwithstanding the Maine Rules of Civil Procedure, Rule 80E, paragraph (b), the commissioner or the commissioner's designee may obtain an administrative search warrant pursuant to this section by describing the premises to be entered and the purpose of the inspection or other authorized action and by demonstrating that the entry is necessary in order to inspect potato cull piles or otherwise carry out the requirements of this section. This demonstration is deemed to be a demonstration of probable cause.

The costs incurred by the department in removing and properly disposing of or managing cull potatoes and cull potato piles must be reimbursed by the ~~owner or lessee of the property on which the potatoes were found or any other person responsible for the potatoes~~ responsible party or parties, each of whom is jointly and severally liable for those costs to the department. The department, its employees and agents and any person acting on behalf of the department are not liable for any action taken pursuant to this section.

5. Potato Cull Removal Fund. The Potato Cull Removal Fund is established to be used by the department to administer and enforce the provisions of this section and to pay any expenses of ~~potato~~ potato management, removal ~~and~~ or disposal. The commissioner may receive funds from any source to be deposited into this fund, which does not lapse. If at any time the balance of the fund falls below \$15,000, any penalties collected under this section must be deposited into the fund. Otherwise, penalties collected must be deposited into the General Fund.

6. Civil penalties. Any person who violates any of the requirements of this section or any rules adopted under this section commits a civil violation for which a fine of not more than \$1,000 for each violation, together with not more than \$1,000 for each succeeding day of a continuing violation, may be adjudged.

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

Effective April 7, 2008.

CHAPTER 571 H.P. 1454 - L.D. 2070

An Act To Improve the Campaign Finance Laws and Their Administration

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

Whereas, legislation enacted during the First Regular Session of the 123rd Legislature created an error in statute regarding qualifying contributions under the Maine Clean Election Act; and

Whereas, proper oversight of the collection of qualifying contributions is necessary to ensure appropriate distribution of taxpayer funds under the Maine Clean Election Act; and

Whereas, the 2008 election cycle for candidates for the 124th Legislature is already underway; 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. 1 MRSA §1002, sub-§2, as amended by PL 2005, c. 271, §1, is further amended to read:

2. Qualifications. The members of the commission must be persons of recognized judgment, probity and objectivity. A person may not be appointed to this commission who is a member of the Legislature or who was a member of the previous Legislature, who was a declared candidate for an elective county, state or federal office within 2 years prior to the appointment; or who now holds an elective county, state or federal office; ~~who is an officer of a political committee, party committee or political action committee or who holds a position in a political party or campaign.~~ A person may not serve on the commission who is an officer, director, employee or primary decision maker of a party committee, political action committee or candidate committee authorized under Title 21-A, section 1013-A, subsection 1, paragraph B.

Sec. 2. 1 MRSA §1002, sub-§2-A is enacted to read:

2-A. Conflict of interest. This subsection governs conflicts of interest of members of the commission.

A. A member of the commission has a conflict of interest in a matter before the commission if the member has a business or close political relationship with a party to the matter. A close political relationship exists when a member has significant past or ongoing involvement with a political committee or a candidate, as defined in Title 21-A, section 1, subsection 30 and subsection 5, respectively, or other organization involved in the matter, that would lead a reasonable person to believe that the member is unable to objectively consider the matter. A close political relationship is not created by making a contribution to a political committee, organization or candidate; party enrollment status; or mere membership in an organization involved in the matter.

B. If members of the commission have a conflict of interest in a matter before the commission, the members shall recuse themselves from the matter and may not vote on or attempt to influence the outcome of the matter. Whether or not recusal is required under this paragraph, members of the commission shall consider recusing themselves from any matter that would give rise to an appearance of a conflict of interest.

Sec. 3. 1 MRSA §1002, sub-§2-B is enacted to read:

2-B. Annual disclosure statement. Each member shall file a disclosure statement with the executive director of the commission by February 15th of each year, which must include:

A. The names of and the positions held in all candidate committees, political action committees, ballot question committees and party committees of which the member or the member's spouse or domestic partner was an officer, director or primary decision maker or fund raiser during the previous calendar year;

B. The names of and positions held in all non-profit or commercial organizations of which the member or the member's spouse or domestic partner was an owner, officer, director or primary decision maker or fund raiser that, during the previous calendar year, made expenditures of more than \$1,500 to influence an election or employed a lobbyist who was required to register with the commission; and

C. Any additional information that the commission determines appropriate.

A member shall notify the executive director if the member becomes an officer, director, employee or primary decision maker or fund raiser of a party committee, political action committee, ballot question committee or candidate committee within 21 days of the event.

Sec. 4. 1 MRSA §1002, sub-§7 is enacted to read:

7. Removal of members. A member of the commission may be removed by the Governor for inefficiency, willful neglect of duty, malfeasance in office, engaging in prohibited activities or failure to continually meet the qualifications set out by this section or to comply with the disclosure requirements, but only with the review and concurrence of the joint standing committee of the Legislature having jurisdiction over election practices and legislative ethics upon hearing in executive session, or impeachment by the Legislature. Before removing a board member, the Governor shall notify the President of the Senate and the Speaker of the House of Representatives of the removal and the reasons for the removal.

Sec. 5. 21-A MRSA §1002, as repealed and replaced by PL 2001, c. 667, Pt. A, §43, is repealed and the following enacted in its place:

§1002. Meetings of commission

1. Meeting schedule. The commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held and every 2 weeks in the 60 days preceding an election. In the 28 days preceding an election, the commission shall meet in Augusta within one calendar day of the filing of any complaint or question with the commission. Agenda items in the 28 days preceding an election must be decided within 24 hours of the filing unless all parties involved agree otherwise.

2. Telephone meetings. The commission may hold meetings over the telephone if necessary, as long as the commission provides notice to all affected parties in accordance with the rules of the commission and the commission's office remains open for attendance by complainants, witnesses, the press and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the commission are permitted:

A. During the 28 days prior to an election when the commission is required to meet within 24 hours of the filing of any complaint or question with the commission; or

B. To address procedural or logistical issues before a monthly meeting, such as the scheduling of meetings, deadlines for parties' submission of written materials, setting of meeting agenda, requests to postpone or reschedule agenda items, issuing subpoenas for documents or witnesses and recusal of commission members.

3. Other meetings. The commission shall meet at other times on the call of the Secretary of State, the President of the Senate, the Speaker of the House or the chair or a majority of the members of the commis-

tion, as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

4. Office hours before election. The commission office must be open with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election and from 8 a.m. until at least 8 p.m. on election day.

Sec. 6. 21-A MRSA §1003, sub-§3-A is enacted to read:

3-A. Confidential records. Investigative working papers of the commission are confidential and may not be disclosed to any person except the members and staff of the commission, the subject of the audit or investigation, other entities as necessary for the conduct of an audit or investigation and law enforcement and other agencies for purposes of reporting, investigating or prosecuting a criminal or civil violation. For purposes of this subsection, "investigative working papers" means documents, records and other printed or electronic information in the following limited categories that are acquired, prepared or maintained by the commission during the conduct of an investigation or audit:

A. Financial information not normally available to the public;

B. Information belonging to a party committee, political action committee, ballot question committee, candidate or candidate's authorized committee that, if disclosed, would reveal sensitive political or campaign information;

C. Information or records subject to a privilege against discovery or use as evidence; and

D. Intra-agency or interagency communications related to an audit or investigation.

The commission may disclose investigative working papers, except for the information or records subject to a privilege against discovery or use as evidence, in a final audit or investigation report or determination if the information or record is materially relevant to a finding of fact or violation.

Sec. 7. 21-A MRSA §1005 is enacted to read:

§1005. Restrictions on commercial use of contributor information

Information concerning contributors contained in campaign finance reports filed by candidates, political action committees and party committees and reports filed under section 1056-B may not be used for any commercial purpose, including, but not limited to, the sales and marketing of products and services, or for solicitations of any kind not directly related to activities of a political party, so-called "get out the vote"

efforts or activities directly related to a campaign as defined in section 1052. Any person obtaining contributor information from the reports is prohibited from selling or distributing it to others to use for commercial purposes and also is prohibited from making publicly available the mailing addresses of contributors. This section does not prohibit a political party, party committee, candidate committee, political action committee or any other organization that has obtained contributor information from the commission from providing access to such information to its members for purposes directly related to party activities, so-called "get out the vote" efforts or a campaign as defined in section 1052. A person who violates this section is subject to a fine of up to \$5,000. A person who knowingly violates this section commits a Class E crime.

Sec. 8. 21-A MRSA §1011, sub-§1, as enacted by PL 1995, c. 483, §2, is amended to read:

1. Role of the municipal clerk; commission.

For candidates for municipal office, the municipal clerk is responsible for any duty assigned to the commission in this subchapter related to the registration of candidates, receipt of reports and distribution of information or forms, unless otherwise provided. Notwithstanding any other deadline set forth in this chapter, candidates must file their reports by the close of business on the filing deadline established for the office of the municipal clerk. The commission retains the sole authority to prescribe the content of all reporting forms.

Sec. 9. 21-A MRSA §1059, first ¶, as amended by PL 2007, c. 443, Pt. A, §35, is further amended to read:

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the filing deadline.

Sec. 10. 21-A MRSA §1122, sub-§9, as amended by PL 2007, c. 443, Pt. B, §3, is further amended to read:

9. Seed money contribution. "Seed money contribution" means a contribution of no more than \$100 per individual made to a participating candidate, including the candidate or the candidate's spouse or domestic partner.

Sec. 11. 21-A MRSA §1125, sub-§3, as amended by PL 2007, c. 240, Pt. F, §1 and by c. 443, Pt. B, §6, is further amended to read:

3. Qualifying contributions. Participating candidates must obtain qualifying contributions during the qualifying period as follows:

A. For a gubernatorial candidate, at least 3,250 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate;

B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or

C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order that is a qualifying contribution in the amount of \$5 as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules. A money order must be signed by the contributor to be a valid qualifying contribution. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, a procedure for a qualifying contribution to be made by a credit or debit transaction and by electronic funds transfer over the Internet. Records containing information provided by individuals who have made qualifying contributions over the Internet are confidential, except for the name of the individual making the contribution, the date of the contribution, the individual's residential address and the name and office sought of the candidate in whose support the contribution was made.

It is a violation of this chapter for a participating candidate or an agent of the participating candidate to misrepresent the purpose of soliciting qualifying contributions and obtaining the contributor's signed acknowledgement.

Sec. 12. 21-A MRSA §1125, sub-§12, as enacted by IB 1995, c. 1, §17, is amended to read:

12. Reporting; unspent revenue. Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. If a certified candidate pays fund revenues to a member of the candidate's immediate family or a business or nonprofit entity affiliated with a member of the candidate's immediate family, the candidate must disclose the family relationship in a manner prescribed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections

that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

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

Effective April 7, 2008.

CHAPTER 572

H.P. 1446 - L.D. 2062

An Act Regarding Education Laws

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

PART A

Sec. A-1. 20-A MRSA §401-A, as enacted by PL 1987, c. 395, Pt. A, §47, is amended to read:

§401-A. Responsibilities of the State Board of Education

The State Board of Education is intended to act as a body with certain policy-making, administrative and advisory functions. In those capacities, the board has the primary responsibility for the following:

- 1. Formulating policy.** Formulating policy by which the commissioner shall administer certain regulatory tasks;
- 2. Advising commissioner.** Advising the commissioner in the administration of all the mandated responsibilities of that position; and
- 3. Enforcing regulatory requirements.** Enforcing regulatory requirements for school administrative units.

The state board may advise the commissioner and the Legislature on matters concerning state laws relating to public preschool to grade 12 and postsecondary education.

Sec. A-2. 20-A MRSA §5401, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

- 1. Municipal school units.** The superintendent of schools in a municipal school unit shall, with the approval of the school board, provide transportation for elementary school students and public preschool students a part of or the whole distance to and from the nearest suitable elementary school. The municipality