

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY

S.P. 641 - L.D. 1869

**An Act To Clarify the Financial Reporting Responsibilities of Political Action
Committees and Ballot Question Committees**

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

Sec. 1. 21-A MRSA §1, sub-§3-A is enacted to read:

3-A. Ballot question committee. "Ballot question committee" means a person required to register as a ballot question committee under section 1056-B.

Sec. 2. 21-A MRSA §1, sub-§29-A is enacted to read:

29-A. Political action committee. "Political action committee" means a person required to register as a political action committee under section 1052-A.

Sec. 3. 21-A MRSA §1052, sub-§2, as amended by PL 2007, c. 443, Pt. A, §27, is further amended to read:

2. Committee. "Committee" means any political action committee, as defined in this subchapter, or any ballot question committee required to be registered under section 1056-B and includes any agent of a political action committee or ballot question committee.

Sec. 4. 21-A MRSA §1052-A, as amended by PL 2015, c. 408, §2, is further amended to read:

§1052-A. Registration

A political action committee shall register with the commission and amend its registration as required by this section. A registration is not timely filed unless it contains all the information required in this section.

1. Deadlines to file and amend registrations. A political action committee shall register and file amendments with the commission according to the following schedule.

A. A political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4) that receives contributions or makes expenditures in the aggregate in excess of \$1,500 and a political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (5) that receives contributions or makes expenditures in the aggregate in excess of \$5,000 for the purpose of influencing the nomination or election of any candidate to political office shall register with the commission within 7 days of exceeding the applicable amount.

B. A political action committee shall amend the registration within 10 days of a change in the information that political action committees are required to disclose under this section.

C. A political action committee shall file an updated registration form between January 1st and March 1st of each year in which a general election is held. The commission may waive the updated registration requirement for a newly registered political action committee or other registered political action committee if the commission determines that the requirement would cause an administrative burden disproportionate to the public benefit of the updated information.

2. Disclosure of treasurer and officers. A political action committee must have a treasurer and a principal officer. The same individual may not serve in both positions. The political action committee's registration must contain the names and addresses of the following individuals:

A. The treasurer of the political action committee;

B. A principal officer of the political action committee;

C. Any other individuals who are primarily responsible for making decisions for the political action committee;

D. The individuals who are primarily responsible for raising contributions for the political action committee; and

E. The names of any other candidates or Legislators who have a significant role in fund-raising or decision-making for the political action committee.

3. Other disclosure requirements. A political action committee's registration must also include the following information:

A. A statement indicating the specific candidates, categories of candidates or campaigns that the political action committee expects to support or oppose;

B. If the political action committee is formed to influence the election of a single candidate, the name of that candidate;

C. The form or structure of the organization, such as a voluntary association, membership organization, corporation or any other structure by which the political action committee functions, and the date of origin or incorporation of the organization;

D. If the political action committee has been formed by one or more for-profit or nonprofit corporations or other organizations for the purpose of initiating or

influencing a campaign, the names and addresses of the corporations or organizations;

E. The name of the account that the political action committee will use to deposit contributions and make expenditures pursuant to section 1054, and the name and address of the financial institution at which the account is established; and

F. Any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter.

4. Acknowledgment of responsibilities. The treasurer, principal officer and any other individuals who are primarily responsible for making decisions for the political action committee shall submit a signed statement acknowledging their responsibilities on a form prescribed by the commission within 10 days of registering the political action committee. The signed acknowledgment statement serves as notification of the responsibilities of the political action committee to comply with the financial reporting, record-keeping and other requirements of this chapter and the potential personal liability of the treasurer and principal officer for civil penalties assessed against the political action committee. The commission shall notify the political action committee of any individual who has failed to submit the acknowledgment statement. Failure to return the acknowledgment statement is a violation of this subchapter for which a fine of \$100 may be assessed against the political action committee. This section also applies to individuals named in an updated or amended registration required by this subsection who have not previously submitted an acknowledgment statement for the political action committee with the commission.

5. Resignation and removal. An individual who resigns as the treasurer, principal officer or primary ~~decision-maker~~ decision maker of a political action committee shall submit a written resignation statement to the commission. An individual's resignation is not effective until the commission receives the written resignation statement from the individual. If an individual is involuntarily removed from the position of treasurer, principal officer or primary ~~decision-maker~~ decision maker by the political action committee, the political action committee shall notify the commission in writing that the individual has been removed from the position. The commission may prescribe forms for these purposes.

Sec. 5. 21-A MRSA §1053-A, as amended by PL 2011, c. 389, §35, is further amended to read:

§1053-A. Municipal elections

~~Organizations that qualify~~ If an organization qualifies as a political action committee under section 1052, subsection 5 or is a ballot question committee required to register under section 1056-B and that receive ~~organization receives~~ organization receives contributions or ~~make~~ makes expenditures to influence a municipal campaign in towns or cities with a population of 15,000 or more ~~shall, that organization must~~ register and file reports with the municipal clerk as required by Title 30-A, section 2502. The reports must be filed in accordance with the reporting schedule in section 1059 and must contain the information listed in section 1060. A ~~political action~~ committee registered with the commission and that receives contributions or makes expenditures relating to a municipal election shall

file a copy of the report containing such contributions or expenditures with the clerk in the subject municipality. The commission retains the sole authority to prescribe the content of all reporting forms. The commission does not have responsibility to oversee the filing of registrations or campaign finance reports relating to municipal campaigns; ~~except that the commission shall enforce late filing penalties under section 1020-A, subsection 3 upon the request of a municipal clerk.~~ If a municipal clerk becomes aware of a potential violation of this subchapter that the clerk considers to be substantial, the clerk may refer the matter to the commission for enforcement. The commission may conduct an investigation if the information referred by the municipal clerk shows sufficient grounds for believing that a violation may have occurred. After conducting the investigation, if the commission determines that a violation of this subchapter has occurred, the commission may assess penalties provided in this subchapter.

Sec. 6. 21-A MRSA §1053-B, as amended by PL 2013, c. 334, §21, is further amended to read:

§1053-B. Out-of-state ~~political action~~ committees

An organization that is registered as a political action committee, ballot question committee or political committee with the Federal Election Commission or a jurisdiction outside of this State shall register and file reports with the commission in accordance with this subchapter upon receiving contributions or making expenditures to initiate or influence a campaign in the State in excess of the amounts that would require registration under section 1052-A. The committee is not required to register and file reports if the committee's only financial activity within the State is to make contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and the committee has not raised and accepted any contributions during the calendar year to influence a campaign in this State.

Sec. 7. 21-A MRSA §1054, as amended by PL 2013, c. 334, §22, is further amended to read:

§1054. Appointment of treasurer; depository

Any political action committee required to register under section 1052-A must appoint a treasurer before registering with the commission. A registered political action committee shall deposit all funds contributed to or received by the political action committee for the purpose of influencing a campaign in a single account in a financial institution and shall finance all of the political action committee's expenditures to influence the election through the account. If the political action committee was formed by another organization, that other organization may pay its employees for their campaign-related activities on behalf of the political action committee through its own treasury, rather than through the single account established by the political action committee and used for campaign expenditures.

Sec. 8. 21-A MRSA §1054-A, as enacted by PL 2013, c. 334, §23, is amended to read:

§1054-A. Duties and liabilities of the treasurer, principal officer and primary decision maker of political action committees

1. Duties of the treasurer. The treasurer of the political action committee shall ensure that the political action committee files and amends the political action committee's registration, files complete and accurate financial reports with the commission and maintains the political action committee's records as required by this chapter and the commission's rules. The treasurer is responsible for the political action committee's performance of these duties regardless of whether the treasurer has delegated administrative tasks related to these duties to another individual.

2. Joint responsibilities of the treasurer and principal officer. The treasurer and the principal officer are jointly responsible for the political action committee's compliance with the requirements of this chapter and the commission's rules. The treasurer and principal officer are responsible for accepting and responding to notices and correspondence from the commission on behalf of the political action committee.

3. Participation in spending decisions. An individual who is the treasurer, principal officer or primary decision maker of the political action committee and who has signed the acknowledgment statement required by section 1052-A, subsection 4 is deemed to have participated in the spending decisions of the political action committee until the commission receives the individual's resignation statement or a notice of the individual's involuntary removal from the political action committee.

4. Financial liability. The commission may hold the treasurer and principal officer jointly and severally liable with the political action committee for any fines assessed against the political action committee for violations of this chapter and chapter 14. In addition, the commission may assess all or part of a fine against any other agent of the political action committee who is directly responsible for a violation, including individuals who have resigned or have been removed involuntarily from the political action committee. In deciding whether to assess a penalty against a treasurer, principal officer or any other individual, the commission may consider, among other things, whether the individual had actual knowledge of the action that constituted the violation or had authorized that action and whether the violation was intentional or caused by an error by a vendor or someone outside the control of the political action committee.

Sec. 9. 21-A MRSA §1054-B, as amended by PL 2019, c. 21, §1, is further amended to read:

§1054-B. Payments to Legislators by political action committees

If a Legislator is a principal officer or treasurer of a political action committee or is one of the individuals primarily responsible for raising contributions or making decisions for the political action committee, the political action committee may not compensate the Legislator for services provided to the political action committee. The political action committee may not make payments or distribute, loan, advance, deposit or gift money or anything of value to or compensate a business owned or operated by the Legislator. The political action committee may reimburse the Legislator for expenses incurred in the proper performance of the duties of the Legislator, for purchases made on behalf of the

political action committee and for travel expenses associated with volunteering for the political action committee. Allowable reimbursement for expenses does not include payments from the political action committee that are determined by the commission to be for the purpose of personal financial enrichment of the Legislator. The funds of the political action committee may not be commingled with the personal funds of the Legislator or the funds of a business owned or operated by the Legislator.

Sec. 10. 21-A MRSA §1056-A, as enacted by PL 1993, c. 715, §3, is repealed.

Sec. 11. 21-A MRSA §1056-B, sub-§1, as amended by PL 2009, c. 190, Pt. A, §20, is further amended to read:

1. Filing requirements. A report required by this section must be filed with the commission according to the reporting schedule in section 1059. After completing all financial activity, the ballot question committee shall terminate its campaign finance reporting in the same manner provided in section 1061. The ballot question committee shall file each report required by this section through an electronic filing system developed by the commission unless granted a waiver under section 1059, subsection 5.

Sec. 12. 21-A MRSA §1057, as amended by PL 2015, c. 408, §§4 and 5, is further amended to read:

§1057. Records Required records for political action committees

Any political action committee that is required to register under section 1052-A or 1053-B shall keep records as provided in this section for 4 years following the election to which the records pertain.

1. Details of records. The treasurer of a political action committee shall record a detailed account of:

- A. All expenditures made to or in behalf of a candidate, campaign or political action committee;
- B. The identity of each candidate, campaign or political action committee;
- C. The office sought by a candidate and the district ~~he~~ the candidate seeks to represent, for candidates ~~which~~ that a political action committee has made an expenditure to or in behalf of; and
- D. The date of each expenditure.

2. Receipts. The treasurer of a political action committee shall retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50 to initiate or influence a campaign.

3. Record of contributions. The treasurer of a political action committee shall keep a record of all contributions to the political action committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to aggregate contributions from a single donor of \$50 or less for an election or referendum campaign. When any donor's contributions to a political action committee

exceed \$50, the record must include the aggregate amount of all contributions from that donor.

4. Account statements. The treasurer of a political action committee shall keep account statements relating to the deposit of funds of the political action committee required by section 1054.

Sec. 13. 21-A MRSA §1058, as amended by PL 2013, c. 334, §26, is repealed.

Sec. 14. 21-A MRSA §1060, sub-§1, as amended by PL 2007, c. 443, Pt. A, §36, is further amended to read:

1. Identification of candidates. The names of and offices sought by all candidates whom the political action committee supports, intends to support or seeks to defeat;

Sec. 15. 21-A MRSA §1060, sub-§2, as amended by PL 2007, c. 443, Pt. A, §36, is further amended to read:

2. Identification of committees; parties. The names of all political committees or party committees supported in any way by the political action committee;

Sec. 16. 21-A MRSA §1060, sub-§3, as amended by PL 2007, c. 443, Pt. A, §36, is further amended to read:

3. Identification of referendum or initiated petition. The referenda or initiated petitions that the political action committee supports or opposes;

Sec. 17. 21-A MRSA §1061, as amended by PL 2013, c. 334, §29, is further amended to read:

§1061. Dissolution of committees

Whenever any ~~political action~~ committee determines that it will no longer accept any contributions or make any expenditures, the committee shall file a termination report that includes all financial activity from the end date of the previous reporting period through the date of termination with the commission. The committee shall dispose of any surplus prior to termination. In the termination report, the committee shall report any outstanding loan, debt or obligation in the manner prescribed by the commission.

Sec. 18. 21-A MRSA §1062-A, sub-§1, as amended by PL 2013, c. 334, §30, is further amended to read:

1. Registration. A political action committee required to register under section 1052-A, 1053-A or 1053-B or a ballot question committee required to register under section 1053-A or 1056-B that fails to do so or that fails to provide the information required by the commission for registration may be assessed a fine of no more than \$2,500. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, the amount of campaign and financial activity that occurred before the committee registered, whether the committee intended to conceal its campaign or financial activity and the level of experience of the committee's volunteers and staff.

Sec. 19. 21-A MRSA §1062-A, sub-§4, as amended by PL 2019, c. 323, §25, is further amended to read:

4. Maximum penalties. The maximum penalty under this subchapter is \$10,000 for reports required under section ~~1053-A~~, 1056-B or ~~section~~ 1059, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity.

Sec. 20. 21-A MRSA §1062-A, sub-§5, as amended by PL 2013, c. 334, §31, is further amended to read:

5. Request for a commission determination. If the commission staff finds that a ~~political-action~~ committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the treasurer of the ~~political-action~~ committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a ~~political-action~~ committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the ~~political-action~~ committee whose report is not received by 11:59 p.m. on the deadline date, informing the treasurer of the commission staff finding of violation and preliminary penalty calculated under subsection 3 and providing the treasurer with an opportunity to request a determination by the commission. A request for determination must be made within 14 calendar days of receipt of the commission's notice. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

Sec. 21. 21-A MRSA §1062-A, sub-§6, as amended by PL 2009, c. 302, §9, is further amended to read:

6. Final notice of penalty. After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the ~~political-action~~ committee.

If a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff shall mail final notice of the penalty to the principal officer and to the treasurer of the ~~political-action~~ committee. A detailed summary of all notices must be provided to the commission.

Sec. 22. 21-A MRSA §1062-A, sub-§7, as amended by PL 2007, c. 443, Pt. A, §41, is further amended to read:

7. List of late-filing committees. The commission shall prepare a list of the names of ~~political-action~~ committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1) or section 1059, subsection 2, paragraph C

or D within 30 days of the date of the election and shall make that list available for public inspection.