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An Act To Modernize the Maine Clean Election Act by Allowing for Private Contributions

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

Sec. 1. 21-A MRSA §1017, sub-§3-B, as corrected by RR 2009, c. 2, §46, is amended to read:

3-B. Accelerated reporting schedule. Additional reports are required from nonparticipating candidates, as defined in section 1122, subsection 5, pursuant to this subsection.

A. In addition to other reports required by law, any candidate for Governor, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under chapter 14 and who receives, spends or obligates more than the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the commission, within 48 hours of that event, a report with the commission detailing the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures to date.

B. A nonparticipating candidate who is required to file a report under paragraph A shall file no later than 5:00 p.m.:

- (1) For legislative candidates in a primary election only, a report on the 42nd day before the date on which a primary election is held that is complete as of the 44th day before that date;
- (2) For gubernatorial candidates only, a report on the 25th day before the date on which an election is held that is complete as of the 27th day before that date;
- (3) A report on the 18th day before the date on which an election is held that is complete as of the 20th day before that date; and
- (4) A report on the 6th day before the date on which an election is held that is complete as of the 8th day before that date.

The reports must contain the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures as of the end date of the reporting period.

The nonparticipating candidate shall file only those reports that are due after the date on which the candidate filed the report required under paragraph A.

C. A candidate who is required to file a report under paragraph A must file with the commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than 24 hours before 11:59 p.m. on the date of that election:

- (1) For a candidate for Governor, a single expenditure of \$1,000;
- (2) For a candidate for the state Senate, a single expenditure of \$750; and
- (3) For a candidate for the state House of Representatives, a single expenditure of \$500.

A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure.

The commission shall provide forms to facilitate compliance with this subsection. The commission shall notify a candidate within 48 hours if an amount reported on any report under paragraph B exceeds the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race and no report has been received under paragraph A. If all Maine Clean Election Act candidates in the same race have received authorization to spend the maximum ~~matchings~~supplemental funds under section 1125, subsection ~~99A~~, the commission may waive the reports required by this section.

Sec. 2. 21-A MRSA §1019-B, sub-§3, ¶A, as repealed and replaced by PL 2009, c. 524, §6, is amended to read:

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and ~~matchings~~supplemental fund provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2A.

Sec. 3. 21-A MRSA §1019-B, sub-§4, ¶A, as enacted by PL 2009, c. 524, §7, is amended to read:

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and ~~matchings~~supplemental fund provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2A.

Sec. 4. 21-A MRSA §1125, sub-§2, as amended by PL 2009, c. 363, §2, is further amended to read:

2. Contribution limits for participating candidates. Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification, a participating candidate may not accept contributions, except for private contributions in accordance with subsection 9A and seed money contributions. A participating candidate must limit the candidate's total seed money contributions to the following amounts:

- A. Two hundred thousand dollars for a gubernatorial candidate;
- B. One thousand five hundred dollars for a candidate for the State Senate; or
- C. Five hundred dollars for a candidate for the State House of Representatives.

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

Sec. 5. 21-A MRSA §1125, sub-§5-A, ¶F, as enacted by PL 2007, c. 443, Pt. B, §6, is amended to read:

- F. Knowingly accepted any contributions, including any in-kind contributions, or used funds other than fund revenues distributed under this chapter and as allowed under subsection 9A to make campaign-related expenditures without the permission of the commission;

Sec. 6. 21-A MRSA §1125, sub-§6, as amended by PL 2009, c. 105, §1, 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, except as provided by subsection 9-A. Candidates may also accept and spend interest earned on fund revenues in campaign 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. A television advertisement purchased with these revenues must be closed-captioned when closed-captioning is available from the broadcasting station who will broadcast the advertisement. The commission shall publish guidelines outlining permissible campaign-related expenditures.

Sec. 7. 21-A MRSA §1125, sub-§8-A, ¶C, as enacted by PL 2009, c. 302, §17 and affected by §24, is amended to read:

- C. The impact of independent expenditures on the payment of matchingsupplemental funds.

Sec. 8. 21-A MRSA §1125, sub-§9, as amended by PL 2009, c. 363, §10 and repealed and replaced by c. 652, Pt. A, §25 and affected by §26, is repealed.

Sec. 9. 21-A MRSA §1125, sub-§9-A is enacted to read:

9-A. Supplemental funds. After a participating candidate has submitted the required number of qualifying contributions to the commission, the participating candidate may solicit and accept private contributions as a supplement to the funds distributed under subsection 8A for campaign expenditures. A participating candidate may accept supplemental funds aggregating more than the amount of funds distributed under subsection 8A and shall deposit those funds in a segregated account as directed by the commission. When a participating candidate has supplemental funds and has an opponent who is not a participating candidate that has made expenditures greater than the amount of the participating candidate's initial distribution under subsection 8A, the commission shall deposit into the participating candidate's segregated account an amount equal to the supplemental funds received by the participating candidate totaling an amount not to exceed the initial distribution made to the candidate under subsection 8A and shall authorize those funds to be spent on campaign-related expenditures in accordance with this chapter. Private contributions received by a participating candidate as supplemental funds in accordance with this subsection are subject to the same limits and reporting requirements that govern contributions received by nonparticipating candidates under chapter 13.

Sec. 10. 21-A MRSA §1125, sub-§13, as repealed and replaced by PL 2009, c. 524, §17, is amended to read:

13. Distributions not to exceed amount in fund. The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsection 8 or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$750 per donor per election for gubernatorial candidates and \$350 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in ~~subsection 8 and 9~~ subsection 8 according to rules adopted by the commission.

This subsection is repealed September 1, 2011.

Sec. 11. 21-A MRSA §1125, sub-§13-A, as enacted by PL 2009, c. 524, §18, is amended to read:

13-A. Distributions not to exceed amount in fund. The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsection 8A or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$750 per donor per election for gubernatorial candidates and \$350 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in ~~subsection 8-A and 9~~ subsection 8-A according to rules adopted by the commission.

This subsection takes effect September 1, 2011.

Sec. 12. 21-A MRSA §1127, sub-§1, as amended by PL 2009, c. 302, §23, 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 1019B if it determines that the failure to file a timely and accurate report resulted in the late payment of ~~matchings~~supplemental funds. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the political committee authorized by the candidate pursuant to section 1013A, 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. A final determination by the commission may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. Fines assessed or orders for return of funds issued by the commission pursuant to this subsection that are not paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004B. 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.

SUMMARY

This bill replaces the existing matching funds distribution system under the Maine Clean Election Act. This bill permits a participating candidate to accept private contributions. Such contributions are subject to the same limits and reporting requirements as those of traditionally funded candidates. When a participating candidate has an opponent who spends more than the candidate's initial distribution from the Maine Clean Election Fund, the candidate is authorized to spend the private contributions up to the amount of the initial distribution received from the fund, which will be matched dollar for dollar by the fund.