

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 1099 - L.D. 1485

**An Act to Modify the Requirements for 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, as enacted by PL 2019, c. 563, §1, is amended 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~~ has the same meaning as in section 1052, subsection 2-A.

Sec. 2. 21-A MRSA §1, sub-§29-A, as enacted by PL 2019, c. 563, §2, is amended 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~~ has the same meaning as in section 1052, subsection 5.

Sec. 3. 21-A MRSA §1052, as amended by PL 2019, c. 563, §3, is further amended to read:

§1052. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Campaign. "Campaign" means any course of activities to influence the nomination or election of a candidate or to initiate or influence any of the following ballot measures:

- A. A people's veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17;
- B. A direct initiative of legislation under the Constitution of Maine, Article IV, Part Third, Section 18;
- C. An amendment to the Constitution of Maine under Article X, Section 4;

D. A referendum vote on a measure enacted by the Legislature and expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19;

E. The ratification of the issue of bonds by the State or any agency thereof; and

F. Any county or municipal referendum.

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~~ or ballot question committee and includes any agent of a political action committee or ballot question committee.

2-A. Ballot question committee. "Ballot question committee" means a person that receives contributions or makes expenditures aggregating in excess of \$5,000 for the purpose of initiating or influencing a campaign, other than a campaign for the nomination or election of a candidate. The term "ballot question committee" does not include a political action committee or an exempt donor.

3. Contribution. "Contribution" includes:

A. A gift, subscription, loan, advance or deposit of money or anything of value made to ~~or received by a political action committee, except that a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;~~ for the purpose of initiating or influencing a campaign, including but not limited to:

(1) Funds that the contributor specified were given, in whole or in part, in connection with a campaign;

(2) Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically, in whole or in part, for the purpose of initiating or influencing a campaign; and

(3) Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient committee's activities regarding a campaign;

A-1. Any funds deposited or transferred into the campaign account described in section 1054;

B. A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make a contribution to a ~~political action~~ committee;

C. Any funds received by a ~~political action~~ committee that are to be transferred to any candidate, committee, campaign or organization for the purpose of initiating or influencing a campaign; or

D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a ~~political action~~ committee that is used by the ~~political action~~ committee to initiate or influence a campaign.

"Contribution" does not include a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business.

3-A. Exempt donor. "Exempt donor" means a person that has not received contributions for the purpose of influencing a campaign in the prior 2 years and whose only payments of money to influence a campaign in the prior 2 years are:

A. Contributions of money to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality; or

B. Payments for goods or services with an aggregate value of no more than \$100,000 contributed to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality.

4. Expenditure. The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of initiating or influencing a campaign;

(1-A) Any purchase, payment, distribution, loan, advance, deposit or gift of money made from the campaign account described in section 1054;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and

(3) The transfer of funds by a political action committee to another candidate or political committee; and

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, cable television system, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee, candidate or the spouse or domestic partner of a candidate;

(2) Activity designed to encourage individuals to register to vote or to vote, if that activity or communication does not mention a clearly identified candidate;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by a political action committee in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the political action committee on behalf of any candidate does not exceed \$250 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election; and

(6) Any communication by ~~any political action~~ a committee member that is not made for the purpose of influencing the nomination or election of any person to state or county office; and

(7) Any payments to initiate a people's veto referendum or the direct initiative of legislation made prior to the submission of an application to the Department of the Secretary of State as provided in section 901.

4-A. Influence. "Influence" means to promote, support, oppose or defeat.

4-B. Initiate. "Initiate" includes the collection of signatures and related activities to qualify a state or local initiative or referendum for the ballot.

4-C. Leadership political action committee. "Leadership political action committee" means a political action committee, other than a caucus political action committee under section 1053-C, that was directly or indirectly established by a current member of the Legislature or that is directly or indirectly maintained or controlled by a current member of the Legislature.

5. Political action committee. The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization ~~whose purpose is to initiate or influence a campaign; that receives contributions or makes expenditures aggregating more than \$2,500 in a calendar year for the purpose of influencing the nomination or election of a candidate to political office; and~~

~~(4) Any person, including any corporation or association, other than an individual, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose; and~~

~~(5) Any person, including any corporation or association, other than an individual, that does not have as its major purpose influencing candidate elections but that receives contributions or makes expenditures aggregating more than \$5,000 \$2,500 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office; and~~

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 1, paragraph B;

(3) A party committee under section 1013-A, subsection 3; or

~~(4) An organization whose only payments of money in the prior 2 years for the purpose of influencing a campaign in this State are contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and that has not raised and accepted any contributions during the calendar year for the purpose of influencing a campaign in this State exempt donor.~~

Sec. 4. 21-A MRSA §1052-A, as amended by PL 2019, c. 563, §4, 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 (5) shall register with the commission within 7 days of receiving~~ contributions or ~~makes making~~ 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 \$2,500.

A-1. A ballot question committee shall register with the commission within 7 days of receiving contributions or making expenditures in the aggregate in excess of \$5,000.

A-2. A registered committee that does not qualify for an exception to registration pursuant to subsection 1-A shall register as a political action committee or ballot question committee, as applicable, within 7 days of exceeding the \$10,000 threshold specified in subsection 1-A.

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.

1-A. Exceptions to registration. The following exceptions to the registration requirements in subsection 1 apply to registered committees.

A. A registered political action committee that receives contributions or makes expenditures of \$10,000 or less in the aggregate for the purpose of influencing one or more ballot question campaigns in a calendar year is not required to register as a ballot question committee. If a registered political action committee's only expenditures to influence ballot question campaigns in an election year are monetary contributions to registered ballot question committees, the political action committee is not required to register as a ballot question committee regardless of the aggregated amount of such contributions.

B. A registered ballot question committee that receives contributions or makes expenditures of \$10,000 or less in the aggregate for the purpose of influencing the

nomination or election of one or more candidates in a calendar year is not required to register as a political action committee. If a registered ballot question committee's only expenditures to influence candidate elections in an election year are monetary contributions to registered political action committees, party committees or candidates, the ballot question committee is not required to register as a political action committee regardless of the aggregated amount of such contributions.

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, unless the committee is an individual registering as a ballot question committee. 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 or ballot questions 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~~

E-1. A certification of whether the committee is a leadership political action committee; 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 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 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.

6. Modified registration. The commission may adopt simplified registration procedures and forms for an individual registering as a ballot question committee to initiate or influence a ballot question.

Sec. 5. 21-A MRSA §1053-A, as amended by PL 2019, c. 563, §5, is further amended to read:

§1053-A. Municipal elections

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 2 and that organization receives contributions or makes expenditures to influence a municipal campaign in towns or cities with a population of 15,000 or more, 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 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. 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 §1054, as amended by PL 2019, c. 563, §7, is repealed and the following enacted in its place:

§1054. Appointment of treasurer; segregated campaign account

1. Appointment of treasurer. A committee required to register under section 1052-A shall appoint a treasurer before registering with the commission.

2. Segregated campaign account. A committee registered under section 1052-A shall establish a separate account in a bank or other financial institution, referred to in this section as a "campaign account." The committee shall deposit all funds contributed to or received by the committee for the purpose of initiating or influencing a campaign in the campaign account and shall finance all of the committee's expenditures to initiate or influence the campaign through the campaign account. If a business or corporate entity has established the committee, the campaign account must be segregated from the general treasury funds of the entity that established the committee. If the committee is established by one or more individuals, the campaign account must be segregated from and not commingled with the personal funds of those individuals.

3. Exceptions. The commission may adopt procedures by rule for waiving the requirement under subsection 2 to maintain a segregated campaign account upon a showing by a committee that a separate account would be administratively burdensome, including but not limited to committees organized outside this State or an individual who registers as a ballot question committee. If the committee was formed by another organization, that other organization may pay its employees for their campaign-related activities on behalf of the committee through its own treasury, rather than the campaign account. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 7. 21-A MRSA §1054-A, as amended by PL 2019, c. 563, §8, is further 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. 8. 21-A MRSA §1056-B, as amended by PL 2019, c. 323, §23 and c. 563, §11, is repealed.

Sec. 9. 21-A MRSA §1057, as amended by PL 2019, c. 563, §12, is further amended to read:

§1057. 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 the candidate seeks to represent, for candidates 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.

5. Simplified record-keeping requirements. The commission may adopt by rule simplified record-keeping requirements for an individual registering as a ballot question committee to initiate or influence a ballot question. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 10. 21-A MRSA §1059, first ¶, as amended by PL 2019, c. 323, §24, is further amended to read:

A committee required to register under section 1052-A, or 1053-B or 1056-B shall file an initial campaign finance report within 7 days of registration or within 14 days of having been required to register, whichever comes first, and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the day of the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the day of the filing deadline.

Sec. 11. 21-A MRSA §1060, as amended by PL 2019, c. 563, §§14 to 16, is further amended to read:

§1060. Content of reports

The reports must contain the following information and any additional information required by the commission to monitor the activities of ~~political action~~ committees:

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

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

3. Identification of referendum or initiated petition ballot question campaigns. ~~The referenda or initiated petitions~~ ballot question campaigns that the ~~political action~~ committee supports or opposes intends to initiate or influence;

4. Itemized expenditures. An itemization of each expenditure made to initiate or influence any campaign, including the date, payee and purpose of the expenditure; and the name of each candidate, ~~campaign, political committee, political action committee or party committee supported or opposed~~; and each referendum or initiated petition supported or opposed by the expenditure. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the ~~candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition~~; including, but not limited to, expenditures made during the signature gathering phase; the reason for the expenditure; and the date of the expenditure. The commission may specify the categories of expenditures that are to be reported to enable the commission to closely monitor the activities of ~~political action~~ committees;

~~**5. Aggregate expenditures.** An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition;~~

6. Identification of contributions. ~~Names, occupations~~ An itemization of each contribution of more than \$50 made to or received by the committee for the purpose of initiating or influencing a campaign, including the name, occupation, places of business

and mailing addresses ~~address of contributors who have given more than \$50 to the political action committee in the reporting period~~ each contributor and the amount and date of each ~~the~~ contribution, ~~except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those contributions made to the organization for the purpose of influencing a ballot question or the nomination or election of a candidate to political office and all transfers to or funds used to support the political action committee from the general treasury of the organization;~~ and

6-A. Funds deposited into campaign account. Any funds deposited into or transferred into the campaign account described in section 1054, including but not limited to funds from the general treasury of an organization that is required to establish a committee; and

7. Other expenditures payments. Operational expenses and any other expenditures that are not made on behalf of a candidate, committee or campaign, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those expenditures made for the purpose of influencing a campaign payments made from the campaign account described in section 1054.

Sec. 12. 21-A MRSA §1125, sub-§6-F, as amended by PL 2019, c. 635, §6, is further amended to read:

6-F. Participation in political action committees. A participating candidate or a certified candidate may not establish a political action committee for which the candidate is a treasurer or principal officer or for which the candidate is primarily responsible for fund-raising or decision making. This prohibition applies between April 1st immediately preceding a general election through:

- A. The date on which the candidate withdraws from a race;
- B. The date of the primary election or general election for a candidate who loses either election; or
- C. January 1st immediately preceding the next general election for a candidate who wins the general election.

This prohibition also applies to a participating candidate or certified candidate in a special election, except that the prohibition begins on the date of the candidate's nomination. This subsection does not prohibit a participating candidate or certified candidate, including a certified candidate who wins a general or special election, from engaging in fund-raising or decision making for a caucus political action committee, ~~a ballot question committee or a political action committee formed for the purpose of promoting or opposing a ballot question.~~ This prohibition applies to a participating candidate or certified candidate regardless of the date on which the political action committee was established.