



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Commission Meeting 06/29/2016
Agenda Item #2

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: June 21, 2016
Re: Legislative History of House Party Exception in Maine Campaign Finance Law

At the May 25, 2016 meeting, you asked me to track down the legislative history of the exception in the definitions of contribution and expenditure for volunteers' payments for food, invitations and beverages. The current exception is for:

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

(21-A M.R.S.A. §§ 1012(2)(B)(2) and (3)(B)(4))

The exception entered Maine Election Law in 1976. In the previous year, the Maine Legislature had directed the Joint Standing Committee on Election Laws of the 107th Legislature to review the election laws in general and to report to the Legislative Council on any necessary changes. The committee held a number of meetings and presented eight bills for consideration during a special session on different Election Law topics, such as campaign finance, registration of voters, absentee ballots, formation of political parties, etc.

The Law and Legislative Reference Library provided me with the a set of materials constituting the legislative history of the campaign finance bill. These include:

- the language and statement of fact for an original bill (LD 2183),
- the language and statement of fact for a replacement bill (LD 2340),

- an amendment in the State Senate (not related to the house party exception),
- an advisory opinion of the Maine Attorney General relating to some constitutional issues (not relevant),
- the Legislative Record of activity in the State Senate on April 6, 1976, and
- a report of the Joint Standing Committee on Election Laws to the Legislative Council dated January 11, 1977. (The report is not comprehensive, and does not discuss the house party exception.)

There is no “committee file” in the legislative history. A reference librarian told me that committee files were not established until the early 1980s.

LD 2183. LD 2183 was the original campaign finance bill. Among other things, the bill established a definition of the term “contribution,” with six exceptions that were based on the 1974 amendments to the Federal Election Campaign Act adopted by the U.S. Congress two years earlier and scrutinized by the U.S. Supreme Court in the landmark campaign finance case, *Buckley v. Valeo*, 424 U.S. 1 (1976)¹.

Notably, LD 2183 (the original bill) proposed a house party exception for costs paid by someone who was volunteering *on the volunteer’s residential premises*:

The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual’s residential premises for candidate-related activities;

In this original proposal, there was no maximum placed on the costs paid by the volunteer. This language exactly tracked the exception in the 1974 federal statute.

LD 2340 (the “new draft” of LD 2183). For reasons that are not identified in the legislative history, a “new draft” of the bill was introduced as LD 2340. This version *did not restrict* the exception to volunteer activity on the individual volunteer’s residential

¹ Indeed, the emergency preamble to this legislation specifically referenced the need to revise Maine’s campaign finance laws in light of the Supreme Court’s decision, which was issued on January 30, 1976.

premises. It did impose a cap of \$50 per election on the cost of the activities covered by this exception.

The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities; if the cumulative value of such activities by such individual on behalf of any candidate does not exceed \$50 with respect to any election;

LD 2340 became law as P.L. 1975, Chapter 759 (eff. April 14, 1976). The house party exception was codified in Maine statute as 21 M.R.S. § 1392(2)(E)(2). That language has remained in the law until today, except for increases in the dollar limit to \$100 and then \$250. The current limit of \$250 per election was established in 2013. (P.L. 2013, Chapter 334, §§3-4) The provision has been moved to a new title of statute: 21-A M.R.S.A. § 1012(2)(B)(2).

Unfortunately, the legislative history does not shed any light on the legislative purpose of the house party exception or clarify aspects of the law that some have viewed as ambiguous. One point does seem clear: the original scope of the exception was for volunteer activity on the volunteer's own residence, but the Maine Legislature decided against that restriction.

Original 1974 language of federal house party exception

The house party exception in Maine campaign finance law was based on the 1974 amendments to the Federal Election Campaign Act. The federal exception was limited to services at the volunteer's residence:

Exception in Contribution Definition (former 2 U.S.C. § 431(e)(5)(B))

the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

Exception in Expenditure Definition (former 2 U.S.C. § 431(f)(4)(d))

the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities if the cumulative value of such activities by such individual on behalf of any candidate do not exceed \$500 with respect to any election;

Current language of federal house party exception

In 1980, the U.S. Congress amended the house party exception in the definition of “contribution” to

- cover voluntary services provided at a church or community room
- add voluntary services provided to a committee of a political party
- modify the volunteer's limit to \$1,000 per election with respect to a candidate, and \$2,000 in a calendar year with respect to the committees of a political party.

(Public Law 96-187) The resulting 1980 language remains current law today.² The federal campaign finance law was reclassified to Title 52 of the U.S. Code:

² In 1980, the Congress deleted the house party exception from the definition of “expenditure” for reasons that were not apparent in the limited time available to research the federal law.

The term “contribution” does not include ...

(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual’s residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(52 U.S.C. § 30101(8)(B)(ii))

Thank you for your consideration of this research.

(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2183

H. P. 2004

House of Representatives, February 5, 1976

Referred to the Committee on Election Laws. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Filed under Joint Rule 3 pursuant to H. P. 1646.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT Relating to Campaign Reports and Finances.

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

Whereas, the laws on election campaign reports and finances, especially with regard to candidates for the Maine House of Representatives, need to be clarified; and

Whereas, this clarification must be completed as soon as possible in order that political campaigns in 1976 may be conducted without a change of the laws in the middle of the campaign; 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:

21 MRSA c. 35, as last repealed and replaced by PL 1975, c. 621, § 9, is repealed and the following enacted in place thereof:

CHAPTER 35

CAMPAIGN REPORTS AND FINANCES

§ 1391. Purpose; legislative finding of fact; applicability

1. Purpose; findings. The Legislature finds and declares that it is in the best interests of the people of the State of Maine to place certain limits on expenditures by or on behalf of candidates for political office. The Legisla-

ture, while recognizing the right of the citizens of the State of Maine to support the political candidates of their choice and while recognizing the right of those candidates to present their views to the citizens, also is cognizant that abuses in the election process can occur through the expenditure of disproportionate sums of money to influence the voters and further recognizes that an attempt should be made to correct these abuses in order that citizens may have a more balanced view of the positions and platforms of political candidates. The Legislature further finds that the expenditure of large sums of money by any one individual or organization results in undue influence over the electoral process. The Legislature desires to minimize the effects of these problems. Therefore, the Legislature further finds it necessary to impose certain expenditure limits which it feels, after careful study, are properly limited to the end sought to be achieved, will not result in the abridgement of any constitutional freedom of the citizens or candidates and will not interfere with the right of those persons to participate fully in the election process.

2. **Applicability.** This chapter applies to candidates for all state and county offices and to campaigns for their nomination and election.

§ 1392. Definitions

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

1. **Commission.** "Commission" means the Commission on Governmental Ethics and Campaign Practices established pursuant to Title 1, section 1002.

2. **Contribution.** "Contribution" includes :

A. A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to political office ;

B. A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make a contribution for such purposes ;

C. Funds received by a candidate or a political committee which are transferred to such candidate or committee from another political committee or other source ; or

D. The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons which are rendered to such candidate or political committee without charge for any such purpose ; but does not include :

(1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee ;

★ (2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities ;

(EMERGENCY)
New Draft of: H. P. 2004, L. D. 2183
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2340

H. P. 2281

House of Representatives, April 5, 1976

Reported by Mrs. Boudreau from Committee on Election Laws and printed under Joint Rules No. 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT Relating to Campaign Reports and Finances.

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

Whereas, the laws on election campaign reports and finances must be revised as a result of the U. S. Supreme Court's decision of January 30, 1976; and

Whereas, this revision must be completed as soon as possible in order that political campaigns in 1976 may be conducted under constitutional guidelines and without a change of the laws in the course of the campaign; 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 MRSA c. 35, as repealed and replaced by PL 1975, c. 621, § 9, is repealed and the following enacted in place thereof:

CHAPTER 35

CAMPAIGN REPORTS AND FINANCES

§ 1391. Application

This chapter applies to candidates for all state and county offices and to campaigns for their nomination and election.

§ 1392. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings:

1. **Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established pursuant to Title 1, section 1002;

2. **Contribution.** "Contribution" includes:

A. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business, made for the purpose of influencing the nomination or election of any person to state or county office;

B. A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make a contribution for such purposes;

C. Funds received by a candidate or a political committee which are transferred to such candidate or committee from another political committee or other source; and

D. The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons which are rendered to such candidate or political committee without charge for any such purpose.

E. "Contribution" does not include:

(1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

★ (2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities; if the cumulative value of such activities by such individual on behalf of any candidate does not exceed \$50 with respect to any election;

(3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverages to the vendor and if the cumulative value of such food or beverage does not exceed \$50 with respect to any election;

(4) Any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate, if the cumulative amount for such individual incurred with respect to such candidate does not exceed \$50 with respect to any election; or

(5) The payment by a state, district, county or local committee of a political party of the costs of preparation, display or mailing or other distribution incurred by such committee with respect to a printed slate card, sample ballot or other printed listing of 3 or more candidates for any political office.