



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 #7

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: June 21, 2016
Re: 24-Hour Reporting Requirement for Primary Elections

24-hour reporting requirement. The Commission staff wishes to discuss a matter of policy with you: how to apply the 24-hour reporting requirement in the last 13 days before a primary election – in the case of *candidates who do not have an opponent in the primary*.

Candidates, PACs, ballot question committees and state party committees all file campaign finance reports with our office according to certain deadlines. Generally, the last regularly scheduled pre-election report covers a time period through the 14th day before the election. If the candidates and committees receive a large contribution or make a large expenditure in the last 13 days before an election, they are required to file an accelerated, pre-election report (a “24-Hour Report”) disclosing that transaction. The threshold for candidates is receiving any single contribution of \$1,000 or more during this period or making any single expenditure of \$1,000 or more. (Generally, this is the last few days of May and first part of June.) The same transactions are displayed in the more comprehensive, regularly scheduled report that is due 42 days after the election.

A sample report recently filed by State Senate candidate Barry Hobbins is attached for your reference. Similar reports are required for political action committees, ballot question committees and party committees.

The purpose of these 24-Hour Reports is to inform the electorate of large transactions intended to sway the public in the days leading up to an election. The reports also are of interest to more politically active individuals, because they bear on campaign strategy and compliance with other legal requirements, such as the “paid for” information in communications received by voters.

The policy rationale for this reporting requirement seems less compelling for candidates who are uncontested in their primary elections. Voters have only one choice in these elections. Uncontested legislative and county candidates generally have less reason to be financially active in late May or early June. The Commission staff suspects that the informational needs of the public and the political system are adequately served by seeing these large transactions in the post-primary report due 42 days after the primary election (usually in the third week of July).

Questions from Commission staff. It seems probable that during the period of June 1-13, 2016, some legislative and county candidates received a contribution of \$1,000 or more or made an expenditure of \$1,000 or more, and arguably should have filed a 24-hour report, but were unaware of the requirement. (We roughly estimate that there could be about 10 such candidates.) This will become known in mid-July, when candidates begin entering financial transactions in the Commission’s e-filing system for the report due July 26, 2016.

In the interest of keeping the reporting requirements reasonable and focused on what the public and the political system needs, the Commission staff would like to raise for discussion purposes:

- Given the statutory language on the next page, does the Commission have the discretion to consider 24-Hour Reports *not to be required* for candidates who lack an opponent in a primary election? (Because this is a breaking issue, we have not discussed this with counsel yet, but will do so prior to your June 29 meeting.)
- If the reports are required for uncontested primary election candidates and candidates file the report late, would the Commissioners have any interest in

prospectively authorizing a blanket waiver for late-filing penalties for these reports – in order to reduce the number of waiver requests at your July and August meetings? (Our experience with waiver requests by 2014 primary election candidates is shown on the next page.)

Applicable law. During the last 13 days before an election, candidates are required to file a campaign finance report within 24 hours if the candidate receives a single contribution of \$1,000 or more or makes a single expenditure of \$1,000 or more.

C. Any single contribution of \$1,000 or more received or any single expenditure of \$1,000 or more made after the 14th day before any election and more than 24 hours before 11:59 p.m. on the day of any election must be reported within 24 hours that contribution or expenditure. [The law exempts overhead expenses and certain regular staff expenses.]

(21-A M.R.S.A. § 1017(3-A)(C))

Past practice. Through 2012, it was not readily apparent if a candidate had made an expenditure of \$1,000 or more in the last 13 days before a primary election. Our Candidate Registrars generally sought late-filing penalties only if someone notified the Commission informally or through a complaint that someone had made a large expenditure that was not reflected in a 24-Hour Report.

In 2014, the Commission moved to a new e-filing system. In July 2014, the system began to notify candidates that they were late in filing a 24-Hour Report for transactions with dates in late May or early June. In other words, our current e-filing provides candidates with *retroactive* notice that a 24-Hour Report was required, but this notice typically is provided 30 or 40 days after the report was due because of the lag time between candidates make the expenditure and when they enter the expenditure in our e-filing system. (Typically, candidates will enter financial activity for May-June in the third week of July for purposes of the post-primary election report.)

In 2014, the following candidates sought waivers of late-filing penalties for 24-Hour Reports for the primary election:

Waiver Requests for 24-Hour Reports in 2014 Primary Election				
Name	Primary Status	Days Late	Preliminary Penalty	Final Penalty
Gerrish, Karen (R)	Contested	45	\$465.75	\$100.00
Lajoie, Dana (D)	Contested	48	\$979.20	\$100.00
Juskewitch, Steven (D)	Contested	46	\$736.00	\$150.00
Lepage, Paul (R)	Uncontested	41	\$5,000.00	\$500.00
Willette, Michael (R)	Uncontested	47	\$632.15	\$50.00
Stehle, Allen (unenrolled)	---	40	\$800.00	\$0.00

This agenda item may be the result of too much thinking on my part, but my personal opinion is that – in the case of uncontested primary election candidates – the 24-hour reporting requirement requires administrative work for candidates and concern about late-filing penalties that are disproportionate to the benefits to the public.

Thank you for your consideration of this memo.



Commission on Governmental Ethics and Election Practices
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24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

2016 CAMPAIGN YEAR

COMMITTEE		TREASURER	
HON. BARRY J HOBBS 74 BEACH STREET SACO, ME 04072 PHONE: (207) 229-8996 EMAIL: BHOBBS@HOBBSLAW.COM		JOHN M KERRY 55A ROSS ROAD SACO, ME 04072 PHONE: (617) 583-0008 EMAIL: JKERRY01@MAINE.RR.COM	
REPORT	DUE DATE	REPORTING PERIOD	
24 Hour Report of Major Contributions and Expenditures	06/10/2016	06/09/2016 - 06/09/2016	

FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$2,023.20
3. TOTAL DEBTS	\$0.00

I, GAYLE WITHAM, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: GAYLE WITHAM
REPORT FILED ON: 06/09/2016
LAST MODIFIED: 06/09/2016
PRINTED: 06/21/2016
COMMITTEE ID: 9368

24-HOUR EXPENDITURE AND PAYEE INFORMATION

EXPENDITURE TYPES				
<p>CNS Campaign consultants</p> <p>CON Contribution to other candidate, party, committee</p> <p>EQP Equipment (office machines, furniture, cell phones, etc.)</p> <p>FND Fundraising events</p> <p>FOD Food for campaign events, volunteers</p> <p>LIT Print and graphics (flyers, signs, palmcards, t-shirts, etc.)</p> <p>MHS Mail house (all services purchased)</p> <p>OFF Office rent, utilities, phone and internet services, supplies</p> <p>OTH Other</p> <p>PHO Phone banks, automated telephone calls</p>	<p>POL Polling and survey research</p> <p>POS Postage for U.S. Mail and mail box fees</p> <p>PRO Other professional services</p> <p>PRT Print media ads only (newspapers, magazines, etc.)</p> <p>RAD Radio ads, production costs</p> <p>SAL Campaign workers' salaries and personnel costs</p> <p>TRV Travel (fuel, mileage, lodging, etc.)</p> <p>TVN TV or cable ads, production costs</p> <p>WEB Website design, registration, hosting, maintenance, etc.</p>			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
6/9/2016	MAINELY MEDIA, LLC PO BOX 1894 BIDDEFORD, ME 04005	ADS	PRT	\$2,023.20
TOTAL EXPENDITURES FOR CANDIDATE:				\$2,023.20