



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

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: September 20, 2016
Re: Statute Changes for your Consideration at the September 28, 2016 Meeting

Toward the end of each election year, the Commission usually prepares one or more “agency bills” for consideration by the Maine Legislature in the First Regular Session. Agency bills are commonly submitted by executive branch and independent agencies. The Commission has specific authority to submit legislation pursuant to 1 M.R.S.A. § 1009 that provides for submission by early February – later than the usual agency deadline. Nevertheless, in our experience it is better to submit Commission bills earlier, so that they are printed and considered by the Legislature with time to spare.

Usually, the Commission’s proposal is based on issues that have come up at Commission meetings or in the day-to-day administration of the Election Law by the Commission staff. Most of the provisions are generated by the staff, but some are in response to suggestions by Commissioners. The Commissioners approve or modify the provisions, or kindly pass on specific provisions if the Commissioners are not ready to support them. The Commission staff is 100% committed to making sure that the Commissioners are comfortable with the final product. It is your proposal, and the Legislature relies on your vetting of the legislation.

If some of the proposals are viewed as more controversial, the Commission sometimes introduces them as a separate bill to avoid complicating passage of the more routine items.

This year, we are trying to get an earlier start with the hope of finishing this process in November. In that spirit, I have attached a handful of proposed changes for your consideration. You could make decisions on them at your September 28 meeting or defer until a later meeting. We also hope to propose rule changes at the end of October or November. (The deadline for submitting major substantive rule changes to the Legislature is early January.)

The attached insertions and deletions were part of the Commission's 2015 agency bill, L.D. 1123. I have attached a printout of the history of that legislation. Both the Maine House of Representatives and Senate passed the bill to be enacted, but the bill was caught up in the Governor's large-scale veto of legislation. Unfortunately, the veto was sustained by the State Senate. The election administration bill of the Secretary of State suffered the same fate. This was a very unusual outcome for legislation proposed by the Commission, and we chalk it up to an unpredictable session in which there were difficult relations between two branches of government.

Election bills are considered by the Joint Standing Committee on Veterans and Legal Affairs. The members give our bills serious consideration, and usually strip out those provisions that are not supported by the legislative caucuses. Many of our proposals are not controversial. As a general rule, I would estimate that the final Commission bills usually include around 80% of the original legislation.

Thank you for your consideration of these provisions. If you are comfortable with these procedures, we intend to come back to you with more for you to consider in late October or November.

**CHANGES TO STATUTE PROPOSED BY COMMISSION STAFF
(INITIAL PROPOSAL FOR SEPTEMBER 28, 2016 MEETING)**

21-A § 1013-A. Registration

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3. Party committees. The state, district and county committees of parties shall submit to ~~the commission~~ the municipal clerk the names and addresses of all their officers and of their treasurers and the name and address of the principal paid employee, if any, within 30 days after the appointment, election or hiring of these persons. ~~Municipal committees must file copies of the same information with the commission and the municipal clerk. District, county and municipal committees that provide their state party committees with the information required by this subsection to be submitted to the commission have met that requirement.~~ No later than ~~the 2nd Monday in~~ April 15th of each year in which a general election is scheduled, the state committee of a party shall submit to the commission a consolidated report, including the information required under this subsection, for the district, county and municipal committees of that party that includes the name and mailing address of the chair of each district, county, and municipal committee of that party for purposes of receiving correspondence from the commission.



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The Commission sends reminder postcards of filing deadlines to the committees of the political parties organized at the municipal or county level. Since the officers of these committees change frequently, the Commission requires updated contact information every two years to effectively remind the committees of the filing deadlines. It can be challenging to get the political parties to provide the information required by current law. The Commission staff proposes deleting the requirement for local party committees to file names and address of all of their officers and treasurers directly with the Commission. Instead, the state party committees would submit the names and addresses of the chair of each local committee by April 15 of an election year.

21-A § 1017. Reports by candidates

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★ **5. Content.** A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name and address of each payee and creditor and any refund that a payee has made to the candidate or an agent of the candidate. If the payee is a member of the candidate's household or immediate family, the candidate must disclose the candidate's relationship to the payee in a manner prescribed by the commission. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. The candidate and the treasurer are jointly and severally responsible for the timely and accurate filing of each required report.

In campaign finance reports filed with the Commission, PACs, BQCs and state and local party committees are required to disclose both the name and the address of each payee. Candidates have not been required to report the address – only the name. The address can sometimes be necessary to identifying the specific vendor which sold the goods or services to the candidate. Some candidates purchase goods and services from vendors located outside Maine or from individuals or businesses under assumed names that are hard to identify. Within Maine, there are dozens of post offices and retail stores with the same name but different locations. Around half of the candidates for the Legislature participate in the Maine Clean Election Act program and it is important to understand how they have spent their public campaign funds. (This statute covers gubernatorial, legislative, and county candidates, as well as municipal candidates in about a dozen towns or cities with a population of 15,000 or more.)

Due to a change in the Commission's electronic filing system in 2014, the online forms used by candidates to enter expenditures called for them to enter an address for their payees. Almost all candidates entered an address without questioning it. (We can recall receiving only one complaint.) The Commission staff proposes requiring candidates to disclose the address of each payee.

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★ **8. Disposition of surplus.** A candidate or treasurer of a candidate registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355 must dispose of a surplus exceeding \$100 within 4 years of the election for which the contributions were received by:

§ 1017(8) sets out the ways that a traditionally financed candidate may dispose of surplus campaign contributions after an election. (This subsection does not apply to Maine Clean Election Act candidates.) Candidates dispose of these unspent funds within four years of the election for which they were raised. The Commission staff proposes inserting candidate into the first sentence because the candidate (not the treasurer) usually makes the decision how to dispose of surplus funds.

A. Returning contributions to the candidate's or candidate's authorized political committee's contributors, as long as no contributor receives more than the amount contributed;

B. A gift to a qualified political party within the State, including any county or municipal subdivision of such a party;

★ B-1. A gift to a political action committee or ballot question committee registered with the commission.

In response to questions from candidates, the Commission staff proposes permitting candidates to donate surplus funds to a political action committee or ballot question committee.

C. An unrestricted gift to the State. A candidate for municipal office may dispose of a surplus by making a restricted or unrestricted gift to the municipality;

D. Carrying forward the surplus balance to a political committee established to promote the same candidate for a subsequent election;

D-1. Carrying forward the surplus balance for use by the candidate for a subsequent election;

★ D-2. Spending the funds to pay expenses related to a recount of the candidate's election;

The Commission staff also proposes permitting candidates to spend surplus funds for a recount. Current law (§ 1018-B) forbids MCEA funds to be spent for a recount.

E. Transferring the surplus balance to one or more other candidates registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355, or to political committees established to promote the election of those candidates, provided that the amount transferred does not exceed the contribution limits established by section 1015;

F. Repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate;

G. Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; and

H. A gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift.

The choice must be made by the candidate for whose benefit the contributions were made.

21-A § 1020-A. Failure to file on time

★ **1. Registration.** A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of ~~\$10~~ \$100. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

Some candidates for legislative and county office do not register with the Commission even after multiple attempted contacts by the Commission staff. The Commission sometimes needs to initiate an enforcement process in order to persuade some individuals to register. Under current law, if a candidate is late in registering with the Commission, the Commission may assess a forfeiture of \$10. This amount is so small it has little punitive value. Whether the office is municipal, county, or legislative, the public deserves to have each candidate for public office file a simple form providing contact information and identifying a treasurer and other officers. The Commission staff recommends increasing the penalty to \$100.

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

★ If a current member of the Maine Legislature 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 committee may not compensate the Legislator or a member of the Legislator's immediate family or household for services provided to the committee. The committee may reimburse the Legislator or family or household member for expenses incurred in the proper performance of the duties of Legislator, for purchases made on behalf of the committee and for travel expenses associated with volunteering for the committee.

Under current law, PACs must be formed in order to spend certain amounts to influence elections. Once a PAC is formed, however, there are no restrictions in law concerning how the PAC may spend its funds. In response to two PACs that received press attention in 2014-16, the Commission staff proposes that if a Legislator has a principal role in a PAC that the PAC be prohibited from compensating the Legislator or a member of the Legislator's immediate family or household for services provided to the PAC. Please note that the current proposal is not limited only to leadership PACs that are controlled by a single Legislator.



State of Maine Legislature

Actions for LD 1123

Bill Info

LD 1123 (SP 395)

"An Act To Amend the Campaign Reports and Finances Laws and the Maine Clean Election Act"

New Search

Summary

Actions

Bill Text and
Other Docs

Committee
Info

Title &
Section

Amendments

Sponsors

Roll-calls

Subjects

Date Chamber Action

3/26/2015 Senate Reported by Senator CYRWAY of Kennebec for the Commission on Governmental Ethics and Election Practices pursuant to the Maine Revised Statutes, Title 1, section 1009.

Report **READ** and **ACCEPTED**.

On Motion by Senator Collins of York, **REFERRED** to the Committee on Veterans and Legal Affairs and ordered printed pursuant to Joint Rule 218.
Ordered sent down forthwith for concurrence.

Report was **READ** and **ACCEPTED**.

The Bill was **REFERRED** to the Committee on **VETERANS AND LEGAL AFFAIRS** and ordered printed pursuant to Joint Rule 218.
In concurrence. ORDERED SENT FORTHWITH.

Report **READ** and **ACCEPTED**.
READ ONCE.

Committee Amendment "A" (S-192) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE Amendment "A" (S-192)** .

Ordered sent down forthwith for concurrence.

6/5/2015 House CONSENT CALENDAR - FIRST DAY

Under suspension of the rules

CONSENT CALENDAR - SECOND DAY.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-192)**.

In concurrence. ORDERED SENT FORTHWITH.

6/8/2015 House **PASSED TO BE ENACTED**.

Sent for concurrence. ORDERED SENT FORTHWITH.

6/9/2015 Senate

PASSED TO BE ENACTED, in concurrence.

6/22/2015 Senate

LD 1123 In Senate, June 22, 2015, this Bill, having been returned by the Governor, together with objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?" 17 In Favor and 16 Against , accordingly it was the vote of the Senate that the Bill not become law and the **VETO** was **SUSTAINED** .

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