

Agenda

Item #3



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

To: Commission Members

From: Jonathan Wayne, Executive Director

Date: March 30, 2007

Re: Two More Improvements to Commission Bill

On February 5, 2007, the Commission staff submitted to the Revisor of Statutes the draft legislation which you approved at the January meeting. Because the bill has not been printed or heard yet, the staff seeks your approval to submit two amendments to the bill.

The first amendment would require the Commission to audit the campaigns of candidates for Governor who qualify to receive Maine Clean Election Act funding, and would require candidates for Governor to keep additional documents regarding seed money if collecting \$15,000 in seed money becomes mandatory for gubernatorial candidates. I have attached proposed language.

The second amendment is to increase the amount of the initial payment that candidates for Governor receive from \$400,000 to \$600,000 and to reduce the maximum possible matching funds that a candidate could receive by \$200,000.

	Initial Payment For General Election	Maximum Matching Funds for General Election	Total for General Election
Current Law	\$400,000	\$800,000	\$1,200,000
Staff Proposal	\$600,000	\$600,000	\$1,200,000

Experience in the 2006 Gubernatorial Election

In the 2006 election for Governor, MCEA candidates Woodcock, LaMarche, and Merrill each received an initial payment of \$400,000 in June, but most of their matching funds were received after October 12 – in the last 25 days before the general election – particularly for Chandler Woodcock.

Payments for 2006 General Election	Merrill	Woodcock	LaMarche
Payments on or before 10/12/06	\$406,040.02 (44%)	\$405,883.37 (37%)	\$404,221.75 (44%)
Payments after 10/12/06	\$509,692.05 (56%)	\$697,844.75 (63%)	\$510,939.92(56%)
Total	\$915,732.07	\$1,103,728.12	\$915,161.67

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

	Date	Merrill	Woodcock	LaMarche
Initial Payment	6/9/06	\$400,000.00		
	6/14/06		\$400,000.00	\$400,000.00
Matching Funds	9/29/06	\$6,040.02	\$5,883.37	\$4,221.75
	10/10/06	\$253.06		\$253.06
	10/13/06	\$35,001.55	\$37,133.87	\$35,001.55
	10/16/06	\$7,211.44	\$7,211.44	\$7,211.44
	10/17/06			\$198,319.90
	10/18/06	\$198,319.90	\$198,319.90	
	10/24/06	\$70,905.69	\$189,688.74	\$70,905.69
	10/25/06	\$8,329.32	\$16,434.32	\$8,329.32
	10/26/06	\$46,158.61	\$45,776.27	\$46,158.61
	10/28/06	\$78,744.59	\$161,330.31	\$78,744.59
	10/31/06	\$25,751.94	\$24,574.53	\$25,751.94
	11/1/06		\$12,275.37	\$1,247.87
	11/3/06	\$39,015.95		\$39,015.95
	11/4/06		\$5,100.00	
Total for General Election		\$915,732.07	\$1,303,727.58	\$1,115,155.02

Because a large portion of their funds were received so late, the candidates were less able to make the advertising choices available to privately financed candidates who are able to schedule fundraisers and have more control over their finances. In their comments to the Commission staff for the study report it has been preparing, both the Woodcock and Merrill campaigns expressed dismay at not having sufficient funds to run television advertisements in early October or September – either to define the public image of their candidates or (in Woodcock’s case) to respond to independent expenditures by the other major party.

The Commission staff believes the current payment schedule detracts from the viability of the MCEA as an alternative source of financing for candidates for Governor. The staff recommends increasing the amount of the June initial payment to \$600,000, and

decreasing the maximum amount of matching funds to \$600,000. This 50-50 split would allow MCEA candidates for Governor who have demonstrated significant support within the state through the qualification process to better plan their general election advertising and to purchase ads in early October or September, if desired. Also, it would relieve privately financed candidates from the burden of artificially keeping their general election expenditures low by paying for goods and services in the primary election or encouraging PACs and political parties to fund early advertising.

It seems unlikely that increasing the initial payment would increase the cost of the MCEA program. Under current law, MCEA candidates for Governor receive an initial payment of \$400,000 plus matching funds that are very likely to exceed \$200,000. (The 2006 candidates for Governor received the \$400,000 initial payment plus \$515,162 - \$703,728 in matching funds.) Two factors lead us to this conclusion:

- The two major parties and their national affiliates have demonstrated a willingness to spend very large amounts for television advertising to influence the race for Governor. The Maine Democratic Party paid more than \$1.1 million to a single firm for television commercials in the Governor's race, and the national Republican Governors Association spent \$447,765 on a television advertising campaign in support of Chandler Woodcock.
- Governor Baldacci's 2006 campaign demonstrates that a privately financed candidate for Governor has the potential to raise in excess of \$1 million even with the \$500 contribution limit.

With both independent expenditures and the receipts of well-financed traditional candidates triggering matching funds, future MCEA candidates likely would receive under current law an initial payment of \$400,000 and at least \$200,000 in matching funds. We believe the proposal to make an initial payment of \$600,000 would not increase the cost of the program – it would simply make the timing of the payments more sensible.

New language is shaded

2. Restrictions on Contributions—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 seed money contributions. A participating candidate must limit the candidate's total seed money contributions to the following amounts:

- A. Fifty 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. ~~All seed money contributions must be deposited into a separate campaign account with a bank or other financial institution. Candidates for Governor must obtain a contribution card or other form signed by the contributor that contains the contributor's residential address, mailing address, and telephone number, a statement that the seed money contribution was made with his or her personal funds and was not reimbursed by any source, and any other information deemed necessary by the Commission. Candidates for Governor also must keep a photocopy of all seed money contributions made by check or money order, copies of all electronic transactions from credit card companies, and bank or other account statements for the campaign account.~~

2-A. Seed money report. Seed money contributions and expenditures must be reported according to procedures developed by the commission. A candidate must report the name, residential address, and the occupation and employer of every individual contributor. ~~The commission may require a gubernatorial candidate to submit, with the seed money report, a contribution card or other form signed by the contributor certifying that the seed money contribution was made with his or her personal funds and was not reimbursed by any source.~~

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4. Filing with commission. A participating candidate must submit qualifying contributions, receipt and acknowledgement forms, proof of verification of voter registration, and a seed money report to the commission during the qualifying period according to procedures developed by the commission, except as provided under

subsection 11. ~~Candidates for Governor must also submit photocopies of all electronic contributions made by check or money order, copies of all electronic transactions from credit-card companies, contribution cards required by subsection 2, and bank or other account statements for the campaign account.~~

12-A. Required records. The treasurer shall obtain and keep:

- A. Bank or other account statements for the campaign account covering the duration of the campaign;
- B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and
- C. A record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee.

The treasurer shall preserve the records for 2 years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the commission upon its request.

~~12-B. Audit requirements for candidates for governor. The commission shall audit the campaigns of candidates for Governor who qualify for financing under this chapter to verify compliance with election and campaign laws and regulations. Within one month of declaring an intention to qualify for public financing, a candidate for Governor, the campaign treasurer, and any other relevant campaign staff shall meet with the staff of the commission to discuss audit standards and record-keeping requirements.~~