



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

To: Joint Standing Committee on Veterans and Legal Affairs
Other Interested Persons
From: Jonathan Wayne, Executive Director
Date: September 21, 2011
Re: Preview of Report on Maine Clean Election Act

Thank you for the opportunity to study the Maine Clean Election Act (MCEA) program to address the loss of matching funds due to recent court decisions. This memo is a preview of a report from the Ethics Commission which I will present at your September 26 meeting.

Resolve Chapter 103 directs the Veterans and Legal Affairs Committee to report out legislation by December 1, 2011. (please see reverse side of this sheet)

Recommendation #1 – Status Quo is Unacceptable

- The MCEA program was enacted by Maine voters in 1996 to provide the opportunity of running for office to more candidates and to reduce the role of fundraising in the political process.
- To promote these goals, the MCEA program should meet the campaign needs of most candidates who would like to join the program.
- The combination of 5% less funding for 2012 candidates (Resolve Chapter 89) and the removal of matching funds will make the program unviable for a significant portion (more than half) of 2012 candidates.

Recommendation #2 – Need for Prompt Action

- The time for finalizing the terms of the 2012 MCEA program is in the next few weeks.
- Legislative caucuses are recruiting candidates.
- Some candidates will be deciding in October, November, and December 2011 how they will be financing their 2012 campaigns.
- Candidates need to decide whether to begin accepting limited seed money or traditional campaign contributions of up to \$350 per donor.

Recommendation #3 – Two Legislative Proposals (green and tan sheets)

- The Commission has developed two alternative proposals for changing the legislative program.
- Proposal #1 (the green sheet) would provide fixed amounts to MCEA candidates for the primary and general elections. This proposal has the virtue of simplicity, but the Commission staff estimates that the program would not meet the needs of 10% - 20% of the legislative candidates who were projected to join in 2012.
- Proposal #2 (the tan sheet) would provide a basic level of funding to most 2012 general election candidates, but would allow candidates to qualify for up to two supplemental payments by collecting a greater number of \$5 qualifying contributions. Based on actual spending by 2010 candidates, the Commission projects that 18% of House candidates and 25% of Senate candidates would invest the additional effort in qualifying for the supplemental payments.

Thank you for your consideration of the Commission's report. The Commission staff is ready to assist committee members in whatever direction they would like go.

Resolve, Directing the Commission on Governmental Ethics and Election Practices To Study Modifying the Maine Clean Election Act

Sec. 1 Commission on Governmental Ethics and Election Practices to study the Maine Clean Election Act. Resolved: That the Commission on Governmental Ethics and Election Practices shall study the Maine Clean Election Act to address any adverse rulings by the United States Supreme Court in the case of McComish v. Bennett, No. CV-08-1550-PHX-ROS (D. Ariz. Jan. 20, 2010); and be it further

Sec. 2 Report. Resolved: That the Commission on Governmental Ethics and Election Practices shall submit a report of its findings including any suggested changes to the Maine Clean Election Act pursuant to the study under section 1 by October 15, 2011 to the Joint Standing Committee on Veterans and Legal Affairs. The Joint Standing Committee on Veterans and Legal Affairs shall report out legislation based on the report by December 1, 2011 for presentation to the Second Regular Session of the 125th Legislature; and be it further

Sec. 3 Transfer of funds; Commission on Governmental Ethics and Election Practices - Other Special Revenue Funds. On the effective date of this resolve, the State Controller shall transfer \$3,250 from the Commission on Governmental Ethics and Election Practices, Clean Elections Other Special Revenue Funds account to the Legislative General Fund account in the Legislature to fund the costs of 2 interim meetings of the Joint Standing Committee on Veterans and Legal Affairs to review the commission's report under section 2 and report out legislation.

Legislative Proposal 1 - Fixed Payment Amount for General Election

(assumes candidate has opponent in general election)

House

	Funding Amounts (increase of 50% from 2010)	To Qualify	When are Public Funds Available?
Seed money	\$1,000		
Primary election payment (unopposed)	\$500	Candidates must collect 60 qc's by April 20, 2012.	April 2012 (payment would be automatic)
General election payment #1	\$5,000		June 2012 (payment would be automatic)
General election payment #2	\$1,216		After Sept. 1, 2012 (upon request of candidate)
Maximum campaign funds available	\$7,716		

Notes: House candidates who have an opponent in the primary election would receive \$1,500 for the primary election.

Assumes candidate may collect double amount of seed money.

Senate

	Funding Amounts (increase of 50% from 2010)	To Qualify	When are Public Funds Available?
Seed money	\$3,000		
Primary election payment (unopposed)	\$2,000	Candidates must collect 175 qc's by April 20, 2012.	April 2012 (payment would be automatic)
General election payment #1	\$21,000		June 2012 (payment would be automatic)
General election payment #2	\$7,617		After Sept. 1, 2012 (upon request of candidate)
Maximum campaign funds available	\$33,617		

Notes: Senate candidates who have an opponent in the primary election would receive \$6,000 for the primary election.

Assumes candidate may collect double amount of seed money.

**2012 Cost Projection for Legislative Proposal #1
(Fixed Payment)**

	2010	2012 Projected Totals ³		
	Actual	5% Reduction from 2010 ¹ (pre-AZ Free Enterprise Club)	Legislative Proposal #1 (fixed payment)	Change in Cost (Savings) ²
Primary Election Initial Payments	\$312,779	\$344,259	\$306,000	(\$38,259)
Primary Election Matching Funds	\$3,661	\$30,000	\$0	(\$30,000)
General Election Initial Payments	\$2,189,844	\$2,160,667	\$2,918,376	\$757,709
General Election Matching Funds (net returns)	\$794,722	\$927,880	\$0	(\$927,880)
Total	\$3,301,006	\$3,462,806	\$3,224,376	(\$238,430)

¹ Resolve, Chapter 89 (LD 726)

² Compared to projected 2012 program cost (pre-AZ Free Enterprise Club)

³ The total projected costs for this proposal do **not** take into account the unspent funds that will be returned after the election.

Projected Payments to 2012 Legislative Candidates

	2010 Candidates	5% Reduction from 2010 (pre-AZ Free Enterprise Club)		Legislative Proposal #1 (fixed payment)	
Initial Payments for Primary					
House - Contested Candidates	43	45	\$64,296	41	\$61,500
House - Uncontested Candidates	196	206	\$100,198	185	\$92,500
HouseTotal	239	251	\$164,494	226	\$154,000
Senate - Contested Candidates	6	10	\$73,587	9	\$54,000
Senate - Uncontested Candidates	55	58	\$106,178	49	\$98,000
SenateTotal	61	68	\$179,765	58	\$152,000
Total Initial Payments for Primary			\$344,259		\$306,000
Initial Payments for General					
House - Contested Candidates	232	244	\$960,579	220	\$1,367,520
House - Uncontested Candidates	3	3	\$3,897	3	\$5,538
HouseTotal	235	247	\$964,477	223	\$1,373,058
Senate - Contested Candidates	62	66	\$1,196,191	54	\$1,545,318
Senate - Uncontested Candidates	1	0	\$0	0	\$0
SenateTotal	63	66	\$1,196,191	54	\$1,545,318
Total Initial Payments for General			\$2,160,667		\$2,918,376

Legislative Proposal 2 - Optional Supplemental Payments based on QC Collection

(assumes candidate has opponent in general election)

House - Spending Amounts

	Basic	High	Maximum	To Qualify
Seed money	\$1,000	\$1,000	\$1,000	
Primary election payment (April)	\$500	\$500	\$500	Candidates must collect 60 qc's by April 20, 2012.
Basic payment for general election (June) (portion could be reserved for after Sept. 1)	\$5,000	\$5,000	\$5,000	
Optional supplemental payment #1 (after Sept. 1 upon request)	---	\$2,500	\$2,500	Candidates must collect additional 30 qc's by June 30, 2012. (total of 90)
Optional supplemental payment #2 (after Sept. 1 upon request)	---	---	\$2,500	Candidates must collect additional 30 qc's by June 30, 2012. (total of 120)
Maximum campaign funds available	\$6,500	\$9,000	\$11,500	

Notes: House candidates who have an opponent in the primary election would receive \$1,500 for the primary election.

Post-primary replacement candidates - and opponents of those candidates - would have a later time period to collect supplemental QCs.

Senate - Spending Amounts

	Basic	High	Maximum	To Qualify
Seed money	\$3,000	\$3,000	\$3,000	
Primary election payment (April)	\$2,000	\$2,000	\$2,000	Candidates must collect 175 qc's by April 20, 2012.
Basic payment for general election (June) (portion could be reserved for after Sept. 1)	\$25,000	\$25,000	\$25,000	
Optional supplemental payment #1 (after Sept. 1 upon request)	---	\$12,500	\$12,500	Candidates must collect additional 100 qc's by June 30, 2012. (total of 275)
Optional supplemental payment #2 (after Sept. 1 upon request)	---	---	\$12,500	Candidates must collect additional 100 qc's by June 30, 2012. (total of 375)
Maximum campaign funds available	\$30,000	\$42,500	\$55,000	

Notes: Senate candidates who have an opponent in the primary election would receive \$6,000 for the primary election.

Post-primary replacement candidates - and opponents of those candidates - would have a later time period to collect supplemental QCs.

**2012 Cost Projection for Legislative Proposal #2
(Supplemental Payments)**

	2010	2012 Projected Totals ³		
	Actual	5% Reduction from 2010 ¹ (pre-AZ Free Enterprise Club)	Legislative Proposal #2 (supplemental payments)	Change in Cost (Savings) ²
Primary Election Initial Payments	\$312,779	\$344,259	\$332,500	(\$11,759)
Primary Election Matching Funds	\$3,661	\$30,000	\$0	(\$30,000)
General Election Initial Payments	\$2,189,844	\$2,160,667	\$3,202,450	\$1,041,783
General Election Matching Funds (net returns)	\$794,722	\$927,880	\$0	(\$927,880)
Total	\$3,301,006	\$3,462,806	\$3,534,950	\$72,144

¹ Resolve, Chapter 89 (LD 726)

² Compared to projected 2012 program cost (pre-AZ Free Enterprise Club)

³ The total projected costs for this proposal do not take into account the unspent funds that will be returned after the election.

Projected Payments to 2012 Legislative Candidates

	2010 Candidates	5% Reduction from 2010 (pre-AZ Free Enterprise Club)	Legislative Proposal #2 (supplemental payments)
Initial Payments for Primary			
House - Contested Candidates	43	45	\$64,296
House - Uncontested Candidates	196	206	\$100,198
HouseTotal	239	251	\$164,494
Senate - Contested Candidates	6	10	\$73,587
Senate - Uncontested Candidates	55	58	\$106,178
SenateTotal	61	68	\$179,765
Total Initial Payments for Primary			\$344,259
Initial Payments for General			
House - Basic Payment	232	244	\$960,579
House - One Supplemental Payment	n/a	n/a	n/a
House - Two Supplemental Payments	n/a	n/a	n/a
House - Uncontested Candidates	3	3	\$3,897
HouseTotal	235	247	\$964,477
Senate - Basic Payment	62	66	\$1,196,191
Senate - One Supplemental Payment	n/a	n/a	n/a
Senate - Two Supplemental Payments	n/a	na/	n/a
Senate - Uncontested Candidates	1	0	\$0
SenateTotal	63	66	\$1,196,191
Total Initial Payments for General			\$2,160,667

\$3,202,450