



Minutes of the January 13, 2021, Meeting of the
Commission on Governmental Ethics and Election Practices
45 Memorial Circle, Augusta, Maine

Present: William A. Lee III, Esq., Chair; David R. Hastings, Esq.; Meri N. Lowry; Dennis R. Marble; and William J. Schneider, Esq.

Staff: Jonathan Wayne, Executive Director, and Phyllis Gardiner, Assistant Attorney General

Commissioner Lee convened the meeting at 11:40 a.m. The meeting was livestreamed via YouTube.

The Commission considered the following items:

1. Ratification of the Minutes from the November 18, 2020 Meeting.

Mr. Lee said there had been several emails with proposed corrections to the Minutes and asked if those changes had been made. Mr. Wayne said they had. Ms. Lowry made a motion to adopt the Minutes with the friendly amendments. Mr. Lee seconded the motion. Motion passed 5-0.

2. Rulemaking.

Mr. Wayne said no public comments had been received on this proposal. He said after listening to the discussion regarding this rulemaking, the Commission staff was withdrawing the rulemaking. Mr. Lee asked what the procedure was to withdraw the rulemaking. Ms. Gardiner said, in terms of the Administrative Procedure Act, the Commission did not need to do anything. In terms of the Commission's record and for clarity, she said it made sense to have a motion to not proceed with the rulemaking so the public would know what happened to the rulemaking.

Mr. Lee made a motion to not proceed with the proposed rule that would allow a candidate, who started out traditionally funded to switch to Clean Election Act funding under certain circumstances. Mr. Marble seconded the motion. Motion passed 5-0.

3. Proposed Legislation.

Mr. Wayne said the staff was suggesting the Commission submit four bills to the Legislature. He said in one bill they were trying to simplify the definition of what was a political action committee (PAC) and what was a ballot question committee (BQC), by removing part of the definition that rested on the major purpose of the organization that created the PAC and simplifying some parts of the reporting system. He said the second bill dealt with miscellaneous changes to campaign

finance requirements and the personal financial disclosure made by officials. The third bill increased the lobbyist registration fee, which would provide more funding to pay for staff and technology. The fourth bill was created in response to a request from the Veterans and Legal Affairs Committee, the Commission's oversight committee, to create a definition for a leadership PAC.

Mr. Wayne explained some of the changes made to the proposed legislation considered by the Commission at its December meeting. He said the first modification was on page 5 and was in response to a suggestion from Mr. Hastings. Under the definition of an expenditure, the proposal was that any payment made from the campaign account set up by the PAC be viewed as an expenditure except for the excluded items listed on page 6. Mr. Lee said this change removed any ambiguity. Mr. Hastings agreed and said he thought the change was fine.

Mr. Wayne said the modification appearing on pages 10 and 11 was related to established PACs or BQCs that wanted to raise or spend money to support or oppose a ballot question or to support or oppose candidates, respectively. He said this modification would create an exception that, for example, allowed the PAC to raise or spend up to \$10,000 to influence a ballot question election without being required to form a second committee as a BQC. Mr. Schneider said he wanted to make sure the PAC that raised or spent \$10,000 or less would still have to report the contributions and/or expenditures. Mr. Wayne said they would. Mr. Marble asked if any thought had been given to requiring a separate account because this could be viewed as commingling funds meant for different purposes in one account. Mr. Wayne said he believed it would be fine for a PAC that met the exception to use its campaign account for dual purposes as long as its campaign funds were kept separate from the founding organization's general treasury. He said he would have more concerns about a PAC trying to keep track of two campaign accounts.

In response to a question from Mr. Lee, Mr. Wayne said a PAC could give unlimited amounts of money to a BQC to influence a ballot question without triggering the requirement for the PAC itself to register as a BQC. The PAC would have to report making the contributions and the BQC would have to report receiving them. Mr. Lee said if the PAC donated, for example, \$50,000 worth of signs to a BQC, then it would have to register as a BQC. Mr. Wayne confirmed that it would.

Mr. Hastings asked if the phrase "in an election year" was appropriate because what was the definition of an election year. Mr. Wayne said it might be better to change it to a calendar year.

Ms. Lowry asked for clarification about the distinctions between paragraphs A and B under subsection 1-A. Ms. Lowry said she thought the term “committee” referred to both PACs and BQCs and asked whether it was necessary to have two different sections. Ms. Gardiner said Ms. Lowry was correct that the committee definition did include both PACs and BQCs, but the idea in subsection 1-A was to clearly differentiate between established PACs engaging in a ballot question election and established BQCs engaging in candidate elections. The use of parallel provisions provided that clarity.

Mr. Wayne said the last modification was on page 19 in subsection 7 and clarified that an organization that created a PAC or BQC had to create a separate bank account for the campaign and all payments – whether campaign-related or operational – from that account had to be reported.

Ms. Lowry said she found the new chart that outlined the changes to the registration requirements for PACs and BQCs helpful. She asked if the exception for a monetary contributor should be changed to include language about contribution limits. Ms. Gardiner said they could add a parenthetical at the end about contributions being subject to candidate contribution limits or they could eliminate the word “unlimited.”

Mr. Schneider suggested making some typographical corrections to the proposed legislation.

Mr. Lee made a motion that the legislative changes proposed in agenda item 3, with the friendly amendment made by Mr. Schneider, be presented to the Legislature. Mr. Hastings seconded the motion. Motion passed 5-0.

Mr. Hastings asked for confirmation that they had just moved to forward all four bills and asked if there had been any changes to the other three bills. Mr. Wayne said there were a couple of changes in the second bill: changing “participating candidate” to “certified candidate” and not allowing traditionally financed candidates to switch to Maine Clean Election Act funding. Mr. Lee confirmed that the intent behind his motion was to forward all four bills to the Legislature.

Other Business: Ms. Gardiner said she had spoken with Mr. Monteleone about the Stop the Corridor (STC) lawsuit. Mr. Monteleone said STC would not appeal the court order and was working on gathering the documents requested in the subpoena. She said STC anticipated delivery of the documents by the end of January.

Adjournment

Mr. Hastings made a motion, seconded by Ms. Lowry, to adjourn. The motion passed. The meeting adjourned at 12:20 p.m.

Respectfully submitted,
/s/ Jonathan Wayne
Jonathan Wayne, Executive Director