



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

To: Commissioners
From: Emma Burke, Political Committee & Lobbyist Registrar
Date: August 14, 2023
Re: We the People PAC Request for Waiver of Late-Filing Penalty Due to Non-Filed 11-Day Pre-Special Election Report

We the People PAC was required to file an 11-Day Pre-Special Election Report no later than June 2, 2023, but it was never filed, and the activity required to be reported by June 2nd was filed on July 17th. The preliminary penalty for the late report is \$1,147.50. We the People PAC requests a waiver of the penalty.

LEGAL REQUIREMENTS

Any PAC or party committee that receives contributions or make expenditures for a special election in a non-election year is required to file two reports relating to the special election: one due 11 days before the special election, and one due 42 days after. 21-A M.R.S. § 1059(2)(C). If a committee is late in filing a campaign finance report, the amount of the penalty is set by a formula which takes into consideration a percentage of the total contributions or expenditures, whichever is greater, the number of prior violations within a two-year period, and the number of days the report is late. 21-A M.R.S. § 1062-A(3).

DISCUSSION

On March 15, 2023, Governor Janet Mills and Secretary of State Shenna Bellows announced a special election in Maine House District 45 would be held on June 13th. On April 18th, Political Committee & Lobbyist Registrar Emma Burke emailed individuals in all registered PACs and party committees notifying them of the filing requirements if their committees were to be financially active for the special election. Recipients were instructed to inform Ms. Burke if their committees needed the special election reports, as adding the reports required a manual entry by Ms. Burke. Two individuals associated with We the People PAC received this email: principal

officer Rep. Billy Bob Faulkingham and treasurer Aaron Kregenow. Neither Rep. Faulkingham nor Mr. Kregenow notified Ms. Burke of their intention to be financially active in the June 13th special election.

On July 17th, We the People PAC filed its regularly scheduled July Quarterly Report, which disclosed an expenditure of \$425 on April 4th to the Republican candidate in the special election, Abden Simmons. This activity meant We the People PAC had been required to file the 11-Day Pre-Special Election Report by June 2nd.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$1,147.50, calculated as follows:

Report	Deadline	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
11-Day Pre-Special Election Report	06/02/2023	\$425	6%	45	\$1,147.50

We the People PAC's waiver request from Mr. Kregenow states the PAC was not aware a contribution directly from it to a candidate would be considered an expenditure for additional filing purposes.

STAFF RECOMMENDATION

Special elections ensure no Maine constituents are left without representation. Due to the focus PACs and party committees can put on a special election, compared to the hundreds of races taking place in normal primary and general elections, special elections can sometimes result in thousands of dollars in spending, necessitating PACs and party committees financially participating in special elections to file the same kind of reports required for primary and general elections.

Commission staff understand this requirement may be unexpected and can go unnoticed, which is why additional information is provided regarding reporting requirements for special elections. We the People PAC has a recent history of late reports, with this being the fourth late or unfiled report since January 2022. Consequently, the penalty formula for this violation is calculated at a rate of 6% of the unreported activity per day late. Commission staff are unsure why We the People PAC did not recognize the contribution to Mr. Simmons as a trigger for the special election reports,

considering the expenditure to Mr. Simmons had already been made when Ms. Burke emailed Mr. Kregenow and Rep. Faulkingham, direct contributions to candidates have always been considered a normal, reportable campaign expenditure, and Ms. Burke's email did not make any reference to exempting such expenditures from the additional special election reports.

Generally, when considering penalty waiver requests for routine late filing violations by PACs, since 2018 the Commission has generally assessed a penalty of at least \$750, although sometimes circumstances have justified a smaller penalty. A missed special election report in a non-election year for a PAC is an unusual violation. The Commission staff believe the penalty of \$1,147.50 is disproportionate to the harm suffered by the public, as the candidate who received the contribution reported it on his 11-Day Pre-Special Election Report, and the financial activity was not an expenditure for campaign materials or advertisements targeted at voters. However, the Commission staff is concerned by the PAC's history of late filing during 2022-2023 and Mr. Kregenow's waiver request does not fully explain why the PAC believed no report was required. Therefore, the Commission staff recommend a reduction of the penalty to \$400.

Commission Penalty Decisions - PACs, BQCs, Party Committees (2018 - present)

Committee Name	Requested Waivers of Late-Filing Penalties	Preliminary Penalty	Final Penalty	Commission Meeting Date
Waiver Requests				
Maine United Auto Workers PAC	Late January Quarterly	\$400.00	\$400.00	04/25/18
Maine Health Care Assoc. PAC	Late 24-Hour Report	\$2,760.00	\$500.00	08/29/18
Fecteau Leadership PAC	Late 24-Hour Report	\$400.00	\$400.00	08/29/18
New Mainers PAC	Late 24-Hour Report	\$10,000.00	\$1,000.00	03/06/19
Senate Democratic Campaign Committee	Late January Quarterly	\$1,010.50	\$750.00	04/24/19
Unite Portland PAC (<i>Municipal</i>)	Late IE Report	\$5,000.00	\$1,250.00	12/18/19
Unite Portland PAC (<i>Municipal</i>)	Late IE Report	\$2,052.16	\$750.00	12/18/19
Women's Leadership Fund PAC	Late IE Report	\$100.00	\$50.00	08/11/20
Maine Truck PAC	Late 24-Hour Report	\$2,203.08	\$500.00	10/16/20
Revive Hometown Maine PAC	Late October Quarterly	\$510.00	\$250.00	10/30/20
Mainers for Health and Parental Rights	Late 24-Hour Report	\$980.00	\$750.00	01/27/21
Kittery Democratic Committee	Late 11-Day Pre-General Report	\$500.00	\$100.00	02/24/21
Madison Republican Committee of Maine	Late 11-Day Pre-General Report	\$500.00	\$100.00	02/24/21
York Town Republican Committee	Late 11-Day Pre-General Report	\$500.00	\$100.00	02/24/21
Energy PAC for Maine	Late 24-Hour Report	\$8,840.00	\$750.00	03/31/21
Protect Maine Elections	Late Initial Report	\$1,004.00	\$750.00	10/29/21
Mainers for Local Power PAC	Late 24-Hour Report	\$300,000.00	\$25,000.00	02/28/22
Mainers for Local Power PAC	Late 24-Hour Report	\$98,500.00	\$10,000.00	02/28/22
No on 3: Right to Food is Wrong for Maine	Late 24-Hour Report (3)	\$932.00	\$300.00	02/28/22
Piscataquis County Republican Committee	Late January Semiannual Report	\$500.00	\$100.00	03/30/22
Waldo County Democratic Committee	2022 July Semiannual Report	\$181.21	\$60.40	09/28/22
Lincoln County Republican Committee	2022 July Semiannual Report	\$500.00	\$100.00	09/28/22
American Leadership Committee-Maine PAC	Late IE report Oct. Quarterly Report	\$679.88	\$679.88	11/30/22
Planned Parenthood Maine Action Fund	Late IE report	\$2,433.60	\$750.00	11/30/22
We the People PAC	Late IE report	\$5,000.00	\$1,000.00	11/30/22
We the People PAC	Late IE report	\$99.96	\$99.96	11/30/22
Steve LaFreniere	Late IE Report	\$1,090.00	\$200.00	12/21/22
York Voter Alliance	Late IE report	\$672.61	\$200.00	12/21/22
Androscoggin County Democratic Committee	Late 11-Day Pre-General Report	\$99.94	\$99.94	12/21/22
Aroostook County Republican Committee	Late 11-Day Pre-General Report	\$500.00	\$100.00	01/30/23
Aroostook County Republican Committee	Late 24-Hour Report	\$120.00	\$120.00	01/30/23

Maine AFL-CIO Committee on Political Education PAC	Late 24-Hour Report	\$4,860.00	\$750.00	02/28/23
Maine United Auto Workers Council PAC	Two Late 24-Hour Reports	\$4,900.00	\$1,000.00	02/28/23
American Leadership Committee-Maine PAC	Late 42-Day Post-General Report	\$55,654.00	\$2,500.00	05/31/23

**Late Major Contributor Decisions
(2020 - present)**

Committee Name	Violation	Preliminary Penalty	Final Penalty	Commission Meeting Date
Waiver requests				
Mainers for Local Power PAC	Late Major Contributor (2)	\$53,431.15	\$2,500.00	03/10/20
Maine Street Solutions - Protect Schools BQ	Late Major Contributor	\$25,000.00	\$2,000.00	05/27/20
Clean Energy Matters PAC	Late Major Contributor Notice	\$50,000.00	\$2,500.00	03/31/21
We the People PAC	Late Major Contributor Notice	\$11,500.00	\$2,500.00	05/26/21
Mainers for Local Power PAC	Late Major Contributor Notice	\$13,786.32	\$2,500.00	08/23/21

**Other Enforcement Decisions - Committees
(2018 - present)**

Committee Name	Violation	Preliminary Penalty	Final Penalty	Commission Meeting Date
Other Violations				
Sara Gideon Leadership PAC	Contributions Made in Name of Another		\$500.00	10/30/19
Working Families PAC	Failure to file 2020 October Quarterly; 11-Day Pre-General, 42-Day Post-General, and 2021 January Quarterly and April Quarterly campaign finance reports		\$3,750.00	05/26/21
Mainers for Fair Laws BQC	Missing Disclaimers in television ads		\$2,500.00	09/29/21
Working Families PAC	Over the limit contribution to Diane Russell senate campaign		\$285.00	09/29/21
American Leadership Committee-Maine PAC	Missing top three donors		\$10,000.00	11/30/22

Burke, Emma

From: Aaron Kregenow <akregenow93@gmail.com>
Sent: Monday, August 7, 2023 12:41 PM
To: Burke, Emma; Billy Bob Faulkingham; josh@mitchelltardyjackson.com
Subject: Re: Notice of Non-Filed Special Election Report

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

I am writing to request a waiver on behalf of We The People PAC for the penalty of \$1,147.50. Our committee believed, in good faith, that a campaign contribution was treated directly from an "expenditure" for filing purposes. i have added Attorney Joshua Tardy to this email who will submit further explanation of the waiver prior to the hearing.

Thank you,

Aaron Kregenow

On Mon, Jul 24, 2023 at 12:02 PM Burke, Emma <Emma.Burke@maine.gov> wrote:

Hello Billy Bob and Aaron,

Please see the attached notice. Thank you.

Emma J. Burke (she/her)

Political Committee & Lobbyist Registrar

Maine Ethics Commission

(207) 287-4709 | [Agency Site](#) | [eFiling Site](#)



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

July 24, 2023

Hon. Billy Bob Faulkingham
We the People PAC
PO Box 121
Winter Harbor, ME 04963

Re: Penalty for Non-Filing of 11-Day Pre-Special Election Report

Dear Rep. Faulkingham:

The Commission staff has made a preliminary finding We the People PAC neglected to file an 11-Day Pre-Special Election campaign finance report. Under 21-A M.R.S. § 1059(2)(C), if a PAC has received contributions or made expenditures for the purpose of influencing a special election, the PAC is required to file a pre-election and post-election report. The report was due by 11:59 p.m. on June 2, 2023, but was never filed. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S. § 1062-A). Based on the financial activity that should have been filed in the report, the number of calendar days the activity was reported was late, and any history of violations from the committee, the Commission staff has determined a penalty of \$1,147.50 is owed.

On April 18th I emailed all PAC principal officers and treasurers notifying them that if their committees "raise or spend funds specifically" for the June 13th special election in House District 45, they would need to file the 11-Day Pre-Special Election and 42-Day Post-Special Election Reports. (21-A M.R.S § 1059(C)). I included the statement "You *have* to tell me you are dabbling in this kind of financial activity so I can manually add the reports for you. The reports will not magically appear without me getting involved." On April 4th We the People PAC donated \$425 to the Republican candidate's campaign, but the PAC did not notify me of this activity and its need to file the special election reports. Therefore, the contribution to the candidate was not reported until July 17th in We the People PAC's July Quarterly Report, 45 days after it should have been filed on June 2nd.

The committee may make a written request the Commission waive the violation or penalty in whole or in part. Any request for a waiver must be made within 14 calendar days of your receipt of this notice. The request must be in writing and contain a full explanation of the reasons the committee filed late. Upon receiving your request, the Commission staff will schedule your appeal for an upcoming Commission meeting.

The Commission may waive the penalty if it determines the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence the committee made a bona fide effort to file the report on time. Also, the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure.

Please call (207) 287-4709 or send an email to emma.burke@maine.gov if you have questions.

Sincerely,

Emma Burke
Political Committee & Lobbyist Registrar

Committee Name: We the People PAC
Prior Violations: 2

Report Name	Activity Amount	Due Date	Days Late	Penalty Rate	Penalty
11-Day Pre-Special Election Report	\$425	06/02/2023	45	6%	\$1,147.50

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 2%

For the second violation, 4%

For the third and each subsequent violation, 6%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

A required report sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

MAXIMUM PENALTIES

21-A M.R.S § 1062-A(4)

\$10,000 for special election reports



Commission on Governmental Ethics and Election Practices
 Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
 Website: www.maine.gov/ethics
 Phone: 207-287-4179
 Fax: 207-287-6775

2023 CAMPAIGN FINANCE REPORT

FOR POLITICAL ACTION COMMITTEES

COMMITTEE		TREASURER	
We the People PAC PO Box 5176 Augusta, ME 04332 PHONE:(207) 460-6967 EMAIL: billybob518709@msn.com		Aaron Kregenow 16 Columbia Street Augusta, ME 04330 PHONE: EMAIL: akregenow93@gmail.com	
REPORT	DUE DATE	REPORTING PERIOD	
Committee July Quarterly	07/17/2023	04/01/2023 - 06/30/2023	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$0.00	\$2,000.00
2. OTHER CASH RECEIPTS (INTEREST, ETC.)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS (LINE 1 + 2 + 3)	\$0.00	\$2,000.00
EXPENDITURES		
5. EXPENDITURES TO SUPPORT OR OPPOSE (SCHEDULE B)	\$425.00	\$425.00
6. OPERATING EXPENDITURES (SCHEDULE B-1)	\$1,101.67	\$3,104.94
7. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
8. TOTAL PAYMENTS (LINE 5 + 6 + 7)	\$1,526.67	\$3,529.94
CASH SUMMARY		
9. CASH BALANCE AT BEGINNING OF PERIOD	\$5,363.31	
10. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$0.00	
11. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$1,526.67	
12. CASH BALANCE AT END OF PERIOD	\$3,836.64	
OTHER ACTIVITY		
13. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
14. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
15. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: Aaron Kregenow
 REPORT FILED ON: 7/17/2023 2:28:23 PM
 LAST MODIFIED:
 COMMITTEE ID: 370916

**SCHEDULE B
EXPENDITURES TO SUPPORT OR OPPOSE**

EXPENDITURE TYPES					
APP	Apparel (t-shirts, hats, embroidery, etc.)	CON	Contribution to party committee, non-profit, other candidate, etc.		
EQP	Equipment of \$50 or more (computer, tablet, phone, furniture, etc.)	EVT	Campaign and fundraising events (venue or booth rental, entertainment, supplies, etc.)		
FOD	Food for campaign events or volunteers, catering	HRD	Hardware and small tools (hammer, nails, lumber, paint, etc.)		
LIT	Printed campaign materials (palmcards, signs, stickers, flyers, etc.)	MHS	Mail house and direct mail (design, printing, mailing, and postage all included)		
NEW	Newspaper and print media ads only	OFF	Office supplies, rent, utilities, internet service, phone minutes and data		
ONL	Social media and online advertising only	OTH	Other and fees (bank, contribution, and money order fees, etc.)		
PER	Personnel and campaign staff, consulting, and independent contractor costs	PHO	Phones (phone banking, robocalls and texts)		
POL	Polling and survey research	POS	Postage for U.S. Mail and mail box fees		
PRO	Professional services (graphic design, legal services, web design, etc.)	RAD	Radio ads, production costs		
TKT	Entrance cost to event (bean suppers, fairs, party events, etc.)	TRV	Travel (fuel, mileage, lodging, etc.)		
TVN	TV/cable ads, production, and media buyer costs only	WEB	Website and internet costs (website domain and registration, etc.)		
DATE OF EXPENDITURE	PAYEE	REMARK		TYPE	AMOUNT
4/4/2023	Abden S. Simmons 41 Jefferson Street Waldoboro, ME, 04572	Campaign Contribution PAYMENT OF \$425.00 TO SUPPORT: Abden S. Simmons Jurisdiction: State. Party: Republican. Office: Representative. ELECTION YEAR: 2023.		CON	\$425.00
TOTAL EXPENDITURES TO SUPPORT OR OPPOSE:					\$425.00

**SCHEDULE B-1
OPERATING EXPENDITURES**

EXPENDITURE TYPES				
APP	Apparel (t-shirts, hats, embroidery, etc.)	CON	Contribution to party committee, non-profit, other candidate, etc.	
EQP	Equipment of \$50 or more (computer, tablet, phone, furniture, etc.)	EVT	Campaign and fundraising events (venue or booth rental, entertainment, supplies, etc.)	
FOD	Food for campaign events or volunteers, catering	HRD	Hardware and small tools (hammer, nails, lumber, paint, etc.)	
LIT	Printed campaign materials (palmcards, signs, stickers, flyers, etc.)	MHS	Mail house and direct mail (design, printing, mailing, and postage all included)	
NEW	Newspaper and print media ads only	OFF	Office supplies, rent, utilities, internet service, phone minutes and data	
ONL	Social media and online advertising only	OTH	Other and fees (bank, contribution, and money order fees, etc.)	
PER	Personnel and campaign staff, consulting, and independent contractor costs	PHO	Phones (phone banking, robocalls and texts)	
POL	Polling and survey research	POS	Postage for U.S. Mail and mail box fees	
PRO	Professional services (graphic design, legal services, web design, etc.)	RAD	Radio ads, production costs	
TKT	Entrance cost to event (bean suppers, fairs, party events, etc.)	TRV	Travel (fuel, mileage, lodging, etc.)	
TVN	TV/cable ads, production, and media buyer costs only	WEB	Website and internet costs (website domain and registration, etc.)	
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
4/20/2023	Senator Inn 284 Western Ave, Augusta, ME, 04330	hotel	TRV	\$81.74
4/26/2023	LongHorn Steakhouse 12 Stephen King Dr Augusta, ME, 04330	Food	FOD	\$25.83
5/5/2023	The Liberal Cup 115 WATER ST #1 HALLOWELL, ME, 04347	Food	FOD	\$36.51
5/12/2023	LongHorn Steakhouse 12 Stephen King Dr Augusta, ME, 04330	food	FOD	\$47.82
5/17/2023	Men's Wearhouse 5 Senator Way BLDG 3 4, Augusta, ME, 04330	Clothes	APP	\$232.09
5/17/2023	Amatos 34 WESTERN AVE. AUGUSTA, ME, 04330	food	FOD	\$15.35
5/17/2023	Goodwill 5 SENATOR WAY AUGUSTA, ME, 04330	Clothes	APP	\$15.83
5/17/2023	Tideway Market 750 US-1 Hancock, ME, 04640	food	FOD	\$72.30
5/23/2023	Texas Roadhouse 26 Whitten Rd. Augusta, ME, 04330	food	FOD	\$48.31
5/26/2023	Robinsons 494 Somerset Ave Pittsfield, ME, 04967	Gas	TRV	\$69.00

6/1/2023	Shell 183 Capitol St Augusta, ME, 04330	Gas	TRV	\$73.65
6/20/2023	Harbor Market 335 Main St. Winter Harbor, ME, 04693	FOod	FOD	\$33.24
6/23/2023	Warren Harden Artistry 8 Navy Dr Winter Harbor, ME, 04693	Office supplies	OFF	\$350.00
TOTAL OPERATING EXPENDITURES				\$1,101.67

Burke, Emma

From: Burke, Emma
Sent: Tuesday, April 18, 2023 12:13 PM
Subject: Filing Info - HD 45 Special Election

Hello all my PAC and Party friends,

If you plan on being financially active for the June 13th special election in HD 45, please read this email closely.

- If you raise funds or spend funds specifically for this election, your committee must file 11-Day Pre-Special and 42-Day Post-Special Reports.
 - o The bad news? You *have* to tell me you are dabbling in this kind of financial activity so I can manually add the reports for you. The reports will not magically appear without me getting involved.
 - o The good news? For those committees needing these reports, you will *not* have to file the July Quarterly Report.
 - o These reports will be due June 2nd and July 25th, respectively.
- If you make independent expenditures supporting or opposing any of the special election candidates, you will need to file IE Reports. These are already set up in the system, as we are in the 2-day window right ~~meow~~ now.
 - o 2-Day Pre-Special Election IE Reports must be filed within two days between April 15th and May 30th
 - o 1-Day Pre-Special Election IE Reports must be filed within one day between May 31st and June 12th

I'll be – shocker! – sending out more reminders about this, and will also be reminding you of the 24-hour reporting requirements when we get more into May.

If you have any questions about this, please email me. You can call me, but I have a cold and am NOT pleasant sounding at the moment.

Ta ta for now!

Emma J. Burke (she/her)
Political Committee & Lobbyist Registrar
Maine Ethics Commission
(207) 287-4709 | [Agency Site](#) | [eFiling Site](#)

§1059. Report; filing requirements

A committee required to register under section 1052-A or 1053-B shall file an initial campaign finance report within 7 days of registration or within 14 days of having been required to register, whichever comes first, and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the day of the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the day of the filing deadline. [PL 2021, c. 217, §10 (AMD).]

1. Contents; quarterly reports and election year reports.
[PL 2007, c. 443, Pt. A, §35 (RP).]

2. Reporting schedule. A committee shall file reports according to the following schedule.

A. A committee shall file quarterly reports:

- (1) On January 15th, and the report must be complete as of December 31st;
- (2) On April 10th, and the report must be complete as of March 31st;
- (3) On July 15th, and the report must be complete as of June 30th; and
- (4) On October 5th, and the report must be complete as of September 30th. [PL 2019, c. 323, §24 (AMD).]

B. During any year in which primary and general elections are held, a committee shall file primary and general election reports in addition to the reports required under paragraph A:

- (1) On the 11th day before the date on which the election is held, which must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held, which must be complete as of the 35th day after that date.

A committee shall file primary and general election reports even if the committee did not engage in financial activity to influence the primary or general election. [PL 2019, c. 323, §24 (AMD).]

C. In any election year other than a year described in paragraph B, if a committee has received contributions or made expenditures for the purpose of influencing a ballot question election, a special election or a municipal candidate or referendum election subject to Title 30-A, section 2502, the committee shall file preelection and post-election reports:

- (1) On the 11th day before the date on which the election is held, which must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held, which must be complete as of the 35th day after that date. [PL 2019, c. 323, §24 (AMD).]

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C. [PL 1991, c. 839, §29 (RPR).]

E. If a committee is required to file a report 11 days before an election pursuant to paragraph B or C, the committee shall report any single contribution of \$5,000 or more received or single expenditure of \$1,000 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that contribution or expenditure. The treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses. [PL 2019, c. 323, §24 (AMD).]

§1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1052-A, 1053-A or 1053-B or a ballot question committee required to register under section 1053-A or 1056-B that fails to do so or that fails to provide the information required by the commission for registration may be assessed a fine of no more than \$2,500. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, the amount of campaign and financial activity that occurred before the committee registered, whether the committee intended to conceal its campaign or financial activity and the level of experience of the committee's volunteers and staff. [PL 2019, c. 563, §18 (AMD).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [PL 1999, c. 729, §9 (AMD).]

B. An error by the commission staff; or [PL 1999, c. 729, §9 (AMD).]

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [PL 2007, c. 443, Pt. A, §38 (AMD).]

[PL 2009, c. 190, Pt. A, §29 (AMD).]

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 2%; [IB 2015, c. 1, §9 (AMD).]

B. For the 2nd violation, 4%; and [IB 2015, c. 1, §9 (AMD).]

C. For the 3rd and subsequent violations, 6%. [IB 2015, c. 1, §9 (AMD).]

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

[IB 2015, c. 1, §9 (AMD).]

4. Maximum penalties. The maximum penalty under this subchapter is \$10,000 for reports required under section 1053-A, 1056-B or 1059, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this

subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity.

[PL 2019, c. 563, §19 (AMD).]

5. Request for a commission determination. If the commission staff finds that a committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the treasurer of the committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the committee whose report is not received by 11:59 p.m. on the deadline date, informing the treasurer of the commission staff finding of violation and preliminary penalty calculated under subsection 3 and providing the treasurer with an opportunity to request a determination by the commission. A request for determination must be made within 14 calendar days of receipt of the commission's notice. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[PL 2019, c. 563, §20 (AMD).]

6. Final notice of penalty. After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the committee.

If a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff shall mail final notice of the penalty to the principal officer and to the treasurer of the committee. A detailed summary of all notices must be provided to the commission.

[PL 2019, c. 563, §21 (AMD).]

7. List of late-filing committees. The commission shall prepare a list of the names of committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1) or section 1059, subsection 2, paragraph C or D within 30 days of the date of the election and shall make that list available for public inspection.

[PL 2019, c. 563, §22 (AMD).]

8. Failure to file. A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the commission, the State may not prosecute a violation under this subsection.

[PL 2003, c. 628, Pt. A, §8 (AMD).]

8-A. Penalties for failure to file report. The commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under section 1056-B or section 1059 is \$10,000 or the amount of financial activity not reported, whichever is greater.

[IB 2015, c. 1, §11 (AMD).]

9. Enforcement. A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

[PL 2009, c. 302, §10 (RPR).]

SECTION HISTORY

PL 1995, c. 483, §21 (NEW). PL 1999, c. 426, §34 (AMD). PL 1999, c. 729, §9 (AMD). PL 2003, c. 628, §§A7-9 (AMD). PL 2007, c. 443, Pt. A, §§38-41 (AMD). PL 2009, c. 190, Pt. A, §§28-31 (AMD). PL 2009, c. 302, §§8-10 (AMD). PL 2011, c. 389, §49 (AMD). PL 2013, c.