

# BANGOR DAILY NEWS

## All but two PAC provisions in campaign finance law OK'd

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[By Kevin Miller](#)

BDN Staff

AUGUSTA, Maine — A federal judge has largely upheld the constitutionality of Maine's campaign finance laws in the first of two lawsuits filed by the organization that bankrolled much of last year's effort to repeal the state's gay marriage law.

In a split ruling, U.S. District Court Judge D. Brock Hornby said Thursday the registration and reporting requirements imposed on political action committees were not unconstitutionally burdensome, as the National Organization for Marriage had contended.

But the judge did find fault with two parts of Maine's law. Specifically, Hornby struck down what he described as an "unconstitutionally vague" section and ordered the state to stop requiring 24-hour disclosure of expenditures over \$250.

The court has yet to rule on the more highly anticipated case, however, over whether NOM must identify groups or individuals whose donations helped overturn Maine's gay marriage law in November 2009.

State officials and supporters of Maine's campaign finance disclosure laws viewed Hornby's decision as primarily a victory.

"By and large, our PAC reporting law is left standing," said Ann Luther, co-chairwoman of Maine Citizens for Clean Elections, a nonpartisan group heavily involved in monitoring the state's campaign finance laws. "We think Maine voters have been well-served here."

Based in Virginia, NOM is active nationally in the fight against legalization of same-sex marriages and provided roughly \$1.9 million to last year's ballot initiative in Maine.

Since then, the organization has been battling in court to prevent the Maine Ethics Commission, which administers the state's campaign finance laws, from forcing NOM to disclose the identities of its donors.

While NOM said the donations were solicited for the general fight against gay marriage, critics contend the organization raised money specifically for the electoral showdown in Maine on the premise that donors' identities would be kept from the public.

That case is still pending in U.S. District Court.

The case decided Thursday could dictate whether NOM gets involved in the 2010 legislative and gubernatorial races in Maine. NOM leaders have indicated they plan to pay for ads against or in support of candidates, depending on the outcome of the case.

Maine law would require NOM to file as a political action committee if it spent \$5,000 or more “for the purpose of promoting, defeating or influencing in any way the nomination or election of any candidate to political office.”

NOM argued that Maine’s definition of a political action committee, or PAC, as well as expenditure reporting requirements were “vague, overbroad and burdensome.” As such, the PAC laws infringed on the organization’s First Amendment rights by discouraging NOM from getting involved in Maine elections, the group’s attorneys argued.

Hornby disagreed that the registration, disclosure and record-keeping requirements for PACs were overly burdensome, however.

“NOM does not have to set up a separate corporation or separate bank accounts,” Hornby wrote. “It is not unusual to require a corporation doing business in a state to identify its organizational form, provide a name and address, and identify a treasurer and principal officers.”

“Here, in addition, NOM must identify its primary fundraisers and decision-makers and state which Maine candidates or committees it supports or opposes, hardly a huge burden. Reporting, too, is not onerous.”

But Hornby found “unconstitutionally vague” the state’s requirement that an organization file as a PAC if its activities were intended to “influence” or “influence in any way” an election. Hornby removed the references to “influencing” elections from the law.

Hornby also ruled that requiring organizations to report independent expenditures of \$250 or more within 24 hours was “unconstitutionally burdensome.”

Jonathan Wayne, executive director of the Maine Ethics Commission, interpreted Hornby’s ruling as providing “mostly a clean bill of health” for the state’s laws aimed at ensuring transparency in political contributions.

“PAC reporting is going to continue like it always has and independent expenditures reporting is going to continue, except on a different schedule,” Wayne said. “So this decision really upholds Maine’s campaign finance laws.”

A representative for NOM could not be reached Thursday.