



Testimony before the Joint Standing Committee on Veterans and Legal Affairs

LD 23 – Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices (Emergency)

January 23, 2019

Senator Luchini, Representative Schneck, and members of the Joint Standing Committee on Veterans and Legal Affairs:

Thank you for the opportunity to testify on LD 23 – Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices (Emergency).

My name is Anna Kellar, and I am here today on behalf of Maine Citizens for Clean Elections. I'd also like to point out lobbyist Bob Howe, who will be working closely with us this session.

For the last 23 years MCCE has been a leading voice for campaign finance reform in the state and nationally. MCCE was the primary proponent of the original 1996 citizen initiative that conceived of and enacted the Maine Clean Elections Act as the first public funding program of its type in the country. We spearheaded the 2016 citizen initiative to strengthen the law, and remain engaged in protecting the law. In close collaboration with the League of Women Voters of Maine, we are also engaged in a variety of other democracy initiatives – some of which we will be discussing with you over the course of this session. And while sometimes only one of us will be here at the podium, we have quite a presence in Maine, with 12,000 friends and supporters spread out across just about every House and Senate district across the state.

Before I speak about the Resolve, I would like to take a moment to give you some perspective on this point in history – perspective that will inform all of our testimony here this session. We live in a time when our public institutions are under strain. And our democracy is being tested in many ways. Many in our communities are overcome by cynicism or languish in apathy.

But this is hardly new. Our democracy work has not been completed – we constantly strive for a “more perfect union.” Republicans, Democrats, members of other parties, and unenrolled folks can all agree: we have a lot to do before we will truly have a government of the people, for the people, meaningful to ALL the people.

The main issues are familiar to you all – how money distorts our democracy, especially in the wake of *Citizens United*; how unnecessary obstacles hinder the right to vote; how meaningful

transparency continues to elude us. How our the great American experiment in self-governance has left behind too many of our fellow citizens.

So while we applaud certain aspects of our heritage – we will celebrate the centennial of women’s suffrage next year -- we must also rededicate ourselves to the important work of extending that heritage to new Mainers, the unemployed and those with lower incomes, Native Mainers, and numerous other groups who continue to struggle for a full share of the political equity that our proud heritage promises us all. We will be here in the VLA Committee this session to ensure that our democracy works for all of our people and to support any of you who are willing to join us in the ongoing effort to make a more perfect Maine.

Now let me turn to the Resolve, LD 23. The Commission adopted these major rules in May 2018. All rules relating to Clean Elections are considered “major substantive.” By law, major substantive rules require legislative review.

These rules relate to the period immediately after Election Day. The post-election period has always created some unique factors in campaign finance. The implementation of ranked choice voting in 2018 drew more attention to these post-election situations such as recounts and election-related litigation.

The rules in LD 23 set forth the Commission’s approach to clarifying how candidates can handle legitimate expenses in these situations. The rules provide that:

- Clean Election funds may not be used for post-election expenses such as attorney fees in litigation or expenses incurred in a recount. But a candidate may receive contributions for that purpose within limits, and subject to contribution limits and reporting requirements.
- Where the results of a primary are in dispute, the Commission will not make additional Clean Elections distributions. Where appropriate, those distributions will occur after the Secretary of State submits the tabulation of election results to the Governor.

The starting point in evaluating agency rules is whether they give full effect to the language and purposes of the statute that authorizes them. These rules do that. They meet the needs of candidates while preserving the integrity of Clean Elections.

We would like to commend and thank Director Wayne and his staff, as well as the Commissioners themselves, for their work on these rules.

Thank you for the opportunity to testify. I would be happy to answer any questions or provide additional information for the work session.