



Testimony before the Joint Standing Committee on Veterans and Legal Affairs

LD 174, An Act To Restrict the Raising of Money by Maine Clean Election Act Candidates
LD 204, An Act To Prohibit Certain Activities by Maine Clean Election Act Candidates

Monday, February 23, 2015

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

My name is John Brautigam and I am here today on behalf of Maine Citizens for Clean Elections. MCCE is a nonpartisan organization that works in the public interest to advocate for, defend and improve the Maine Clean Election Act and related campaign finance law. Whenever there is legislation relating to our campaign finance and reporting system, MCCE strives to represent Maine citizens' desire for a government "of, by, and for the people."

The background for these two bills begins with Maine's history of "leadership PACs." Legislators of all political backgrounds use leadership PACs to build support among rank and file lawmakers for their leadership aspirations, chiefly by raising money to support their party and candidates who are seeking election to their caucus. Nearly every member of leadership, and many who aspire to leadership, creates his or her own PAC for this purpose.¹

Under current law, there is no limit on the size of a contribution to a PAC, whether it is operated by a publicly funded candidate, privately funded candidate, or someone else. And there is no limit on the number of PACs a person may be involved with. Candidate fundraising laws provide that privately funded candidates can accept campaign contributions of up to \$375. And Clean Election candidates cannot accept any campaign contributions other than seed money, which is capped at \$100 per contribution.

MCCE has long been concerned about the role of PACs in Maine, and we have supported proposals that would reform PACs in a manner consistent with transparency and democratic values. We believe that any effort to change the law in this area must do three things:

First, any PAC reform proposal that restricts Clean Election candidates must include a comparable restriction on privately funded candidates. Second, any leadership PAC proposal

¹ The term "leadership PAC" is an informal term not found in state law. These entities are registered and file their reports under the provisions of law relating to garden variety political action committees.

must not deter candidates from choosing the Clean Election system. Third, the proposal must not reduce overall transparency of the contributions and expenditures in state campaigns.

Let me take these one at a time.

First, if Clean Election candidates are subject to leadership PAC restrictions, privately funded candidates should also be subject to a restriction on their PAC fundraising. This is simply a matter of fairness.

The rules and regulations governing PACs are separate from those governing candidate campaigns, as noted previously. If the legislature wants to take the fundraising restrictions in the candidate campaign system and impose them on leadership PACs, they should do so even-handedly. Those restrictions should apply equally to all leadership PACs, whether operated by privately funded candidates or by Clean Election candidates. We just ask you to be fair, and not focus on only one type of candidate.

Some have argued that a Clean Election candidate receiving a contribution of \$10,000 for a leadership PAC is contrary to the spirit of the public funding system because that candidate could not accept that contribution for his or her own campaign. Our point is that this is also true for privately funded candidates. They have a campaign contribution limit of \$375, so they also should not be able to operate a PAC that receives a contribution of \$10,000. One is no more defensible than the other.

Second, unless this legislation is amended to be even-handed, it could drive down participation in the Clean Elections program. Those seeking leadership positions would almost certainly opt for private funding unless the system of leadership PACs is radically reformed or eliminated. But Maine people enacted the Clean Election law so all candidates could use the system, including those seeking leadership positions. Maine people don't want a two-tier system, where leaders raise thousands of dollars of private money in unlimited amounts, and the rank-and-file all use Clean Elections. Moreover, this bill would further limit participation at a time when we should be working to strengthen our Clean Election laws to support greater participation.

Finally, we understand that any legislation relating to leadership PACs could lead some caucus leaders to re-direct their fundraising activity into other channels such as the state political party committees. If any PAC reform bill is enacted, we think it would be prudent to monitor such changes to ensure that the overall private funding system remains transparent to the greatest extent possible. While Maine currently does not require the identification of those who solicit contributions, this has been proposed in some other jurisdictions, and could be considered here.

The Clean Elections system did not create the problem of leadership PACs. The problems affect both privately funded and publicly funded legislators. Supporters of a similar bill in the 126th Legislature said it was needed because candidates should not be able to "double dip" – taking money with the left hand and then taking more money with the right hand. They said that "special interest money should not influence leadership races." They said that leadership PACs

are a slush fund to make sure that the candidate has extra money if he or she is losing their election race. They said that it would be better if tens of thousands of dollars in leadership PAC money were used to close our budget shortfall. Not one of those arguments is unique to Clean Elections candidates. Privately funded candidates with leadership PACs are subject to all the same criticisms. Therefore the solution must address both types of candidates.

We support measures to address the issues raised with leadership PACs. The approach that we favor is to simply put an end to the practice of candidates operating leadership PACs. Under this candidates could not run two committees – one as a campaign committee and another as a PAC. This would allow privately financed candidates to continue to raise funds for their campaign committee under current limits, and if they want to use those funds to help other candidates, that would be fine. That would be the way to really eliminate the double standard.

In our view, if the legislature truly wants to eliminate the double standard, it would enact more basic reforms. The bottom line is that large special interest contributions given to our elected officials raise serious issues. They raise issues when received by a candidate's campaign. And they raise the same issues when received by the candidate for his or her PAC. When it comes down to it, what is the real difference? So we would support a bill that looks hard at whether we should even have leadership PACs. Perhaps it is time to say no to elected officials' having two campaign fundraising systems and ask them to do their fundraising through one committee, under one set of rules.

MCCE believes that we need to strengthen our Clean Elections law so more candidates may participate in the program. We have worked hard with thousands of citizens across Maine to bring forward a citizens' initiative that will improve and strengthen the Clean Election system so that it will continue as a viable option, allowing the next generation of candidates to run without having to raise money from wealthy special interest contributors.

Thank you for consideration of this testimony.