

# Maine Citizens for Clean Elections

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TO: The Honorable Senator Lisa T. Marraché, Senate Chair  
The Honorable Representative John L. Patrick, House Chair  
The Joint Standing Committee on Legal and Veterans Affairs

DATE: April 23, 2007

RE: **LD 1679** "An Act to Change and Clarify the Maine Clean Election Laws"

## **Maine Citizens for Clean Elections (MCCE) testifies neither for nor against LD 1679.**

MCCE has serious concerns with several of the provisions of LD 1679, but there is one part of the proposal that we fully endorse.

We support the extension of the so-called "rebuttable presumption" period from 21 days to 60 days before the general election. That means that in races where there is at least one Clean Election Act candidate, for the entire active period of the general election campaign, all electioneering that names or depicts a clearly identified candidate will be part of the matching funds calculation. This eliminates one of the perennial problems that has occurred in every election since the Clean Election Act went into effect.

Without the clarity of the "rebuttable presumption" language, the Ethics Commission is asked to determine, over and over again, whether particular advertisements, mailers, etc., constitute express advocacy or not. In almost every case, the purpose of the communication is perfectly clear, and whether or not the specific words of express advocacy are used is unimportant. In more case than not, the Ethics Commissioners find that they do not agree on whether the communication is or is not technically an independent expenditure under the law. This does not happen in the final three weeks of the campaign thanks to the current 21-day reporting requirement. Since elections begin in earnest just after Labor Day, the 60 day extension is entirely appropriate.

We urge this committee to make absolutely certain that this provision is included in whatever bill becomes the vehicle for changes to Clean Elections and our matching funds system. Editorial boards, rank and file legislators, MCCE and others have called for this change for years, and there is really no legitimate reason not to do it. We ask that you and the full legislature make this a top priority, and we thank Representative Schneider very much for including it in her bill.

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*Maine Citizens for Clean Elections is a nonpartisan coalition of organizations that have worked together to pass Maine's Clean Election Act and that continue to work together to support and defend its use and the integrity of its implementation. Its members include AARP, Common Cause Maine, the League of Women Voters of Maine, Maine AFL-CIO, Maine People's Alliance and Peace Action Maine.*

MCCE does not recommend extending the 21 day period before the primary election. The problem mentioned earlier has not arisen at that time in the election cycle, and the broader reporting requirements would likely sweep in non-election communications, especially if the Legislature were in session during that longer period. Sixty days before the primary election includes the first half of April, and that is not necessary or advisable. We believe the current 21 day time period prior to the primary election is adequate.

This bill also calls for shortening the qualifying period for unenrolled candidates who currently have until June 2<sup>nd</sup> to collect and submit their qualifying contributions. Under this proposal all candidates, whether they belong to a political party or not, would have to qualify by April 15<sup>th</sup>.

We understand the concern that the playing field is not really level when some candidates have a longer period in which to complete the same task. MCCE does not believe this is a big problem, thus has not recommended a solution, but we would ask you to consider both this and another alternative approach if you feel there is a problem to be solved. The alternative is to require that unenrolled candidates begin the qualifying process seven weeks later than party candidates. This would make the length of the qualifying process the same for each candidate, but would put the unenrolled candidates qualifying period more in line with their other deadlines. MCCE does not have a strong opinion either way, but we simply offer some of the ideas we have discussed over the years.

As for the other provisions of LD 1679, MCCE:

- strongly opposes barring a Clean Election candidate from changing their party affiliation after a general election and seeking public funds in a subsequent election.
- strongly opposes allowing a carry-over of funds from an uncontested primary to a general election.
- strongly opposes the notion that the law should narrow the number of certified gubernatorial candidates who are not enrolled in a party to one.
- opposes allowing candidates to have inaccurate, outdated disclaimers on signs.
- is neither for nor against the idea of a formula for allowance for travel expenses based on the size of a district. We understand the different needs of candidates in wildly different districts and would be concerned if candidates in small urban districts were claiming disproportional mileage reimbursements. But we hesitate to dictate to the Commission in statute a specific and possibly overly simplistic approach to addressing this. They have done a good job of updating the guidelines for Clean Election candidate expenditures over the years and expect that they will continue to do so.