

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 1724** "An Act to Strengthen the Maine Clean Election Act"

Maine Citizens for Clean Elections (MCCE) supports most of LD 1724.

MCCE thanks Speaker Cummings for submitting a bill which aims to strengthen the Clean Election system. It includes several provisions which we feel are important amendments to our public funding law.

First, the bill strengthens the qualifying process as a demonstration of support for a candidate by stating that voters may make only one Qualifying Contribution in a particular race. This means that candidates would have to seek out voters who actually support their candidacy, not just voters who are generally in favor of public funding. It would decrease the possibility that candidates would receive Qualifying Contributions from voters who support an entirely different candidate, one who would benefit from this particular candidate being well-funded. We think of this as "the enemy of my enemy is my friend" problem, which may be nothing unusual in politics but should have no place in determining which candidates are worthy of public financing.

Second, LD 1724 raises the qualifying bar for gubernatorial candidates by increasing the number of required Qualifying Contributions by 30%, to 3,250. We think this is a reasonable change given the experience of the last two gubernatorial cycles and taking into consideration that with each successive round of Clean Elections the qualifying process gets a little easier.

Third, the bill tightens up the requirements for certification and expressly grants the Ethics Commission the ability to revoke certification under certain circumstances. Both of these sections provide important tools for the Ethics Commission to make sure that public money stays out of the hands of candidates who have violated the public trust. We believe these measures are appropriate for our public funding system.

Fourth, the bill grants the Commission a couple of extra days to make a determination on gubernatorial candidate certification. This makes sense given the size of gubernatorial submissions. It also provides for a longer period if compliance with certification

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.

requirements can not be determined within the 5 day period as long as the candidate is notified of the delay. We believe this is reasonable and that it will guarantee that the Commission is able to be thorough in its investigation of each and every submission.

LD 1724 contains one provision with which we disagree, and that is the one that makes raising \$15,000 in seed money mandatory for gubernatorial candidates. We oppose the idea of requiring candidates who opt into a full public funding system to raise private money. Certainly most gubernatorial candidates will raise some seed money, but we don't think it is necessary or advisable to oblige participating candidates to put their energies into raising seed money if they choose not to, or to force them to raise more than they think they need or want to raise.

There is another provision of this proposal that may need amendment: this is paragraph D-4 under "Certification of Maine Clean Election candidates" which is a kind of "one strike and you're out" provision. It states that if a candidate has been denied certification or had certification revoked in a previous election she or he may not be certified, ever. We agree that any candidate who commits fraud or otherwise violates the Act in an egregious way should not qualify for certification in the future. But the way this sentence is drafted, it could be read to say that someone could be denied certification if they have been previously denied certification for any violation at all. This is worth clearing up because it is conceivable that a candidate would reasonably be denied certification because of circumstances that are beyond their control or for errors made in a final submission that are not indicative of any wrong-doing or attempt to deceive. There is no purpose that is served by imposing a lifelong ban on qualifying for public funding in cases where the candidate was the victim of circumstance or made an innocent mistake. Draconian measures should be reserved for circumstances in which real abuse has occurred.

Finally, LD 1724 eliminates the language that makes all Clean Elections rulemaking major substantive rules. There are two good reasons to make this change. First is that, while the first round of Clean Election rulemaking was pretty substantial, most of what is needed these days is rather routine. Many times changes are made simply to conform the rule with the statute. This sort of rulemaking is definitely the "routine technical" type.

The second reason is timing. After every election, the legislature makes changes in the law, and rulemaking is done after the new laws go into effect. Generally that would be in the summer of the odd numbered year. The Ethics Commission must prepare educational materials, forms, etc. in the fall of the odd-numbered year in order to be ready for the candidates who will begin their campaigns that fall and winter. If the rules have to go back to the Legislature for approval, and the Legislature is not in session, the rules will not be adopted before the materials are produced and the Commission can not be certain of what rules will actually be in place. We believe it helps everyone to know what the rules are well before candidates begin planning their campaigns.

We believe that the determination of whether rulemaking falls into the "major substantive" category should be made on a case-by-case basis and not with a blanket provision that treats all Clean Election rulemaking the same.