

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 30, 2007

RE: **LD 1854** "An Act Regarding Campaign Finance Reporting and the Maine Clean Election Act

Maine Citizens for Clean Elections (MCCE) testifies neither for nor against LD 1854.

There are several important provisions included in LD 1854 that ought to be priorities for passage this year. They are:

Part A 23 This provision extends the so-called "rebuttable presumption" period from 21 to 60 days before the general election. This will ensure that all significant independent electioneering communications that are made during the most active part of the campaign are captured in the matching funds calculations for Clean Election candidates.

Passage of this provision will make the matching funds system work even better, will get the Ethics Commission out of the business of scrutinizing the messages contained in independent electioneering communications, and will ensure that Clean Election candidates receive matching funds in the most timely way possible.

The extension of the "rebuttable presumption" period to 60 days should be a top priority of the 123rd Legislature.

MCCE urges caution in expanding the amount of information that must be disclosed in the independent expenditure reports. While we are firmly in favor of full disclosure to the public, we believe the courts made clear that the state could only require the specific information that would allow the matching funds system to work.

Part A 6 We believe that current law allows a political party to provide up to 20 hour of staff time to advising a candidate. MCCE appreciates the clarification of this important exemption. We were very troubled by the expansive interpretation of this provision in the 2006 cycle which allowed each and every staff member of a party to provide up to 20 hours of advice to a candidate. We do not object to the broadening of the exemption from "advice" to "assistance," since the number of hours is sufficiently limited.

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.

Part A 27 We agree that legislators who play a significant role in PAC fundraising and decision-making should be identified. This information will be helpful in researching and analyzing PAC activity and it enhances the public right to know.

Part B 10 This provision specifies the circumstances under which, and how, the commission may revoke a publicly funded candidate's certification. We believe this change is important to the long term success of the Maine Clean Election Act.

Part B 7 These additions to the certification requirements will ensure that public funds do not go to candidates who violate the public trust.

Part B 6 While we believe the statute is crystal clear that ONLY seed money may be used for goods and services received during the qualifying period, we support the further clarification that no public funds may be used for such expenditures.

MCCE objects to several other provisions of LD 1854. We urge the committee to reject the following ideas.

Part B 8 We strongly object to making seed money mandatory for gubernatorial (or any) candidates. The Maine Clean Election Act is a full public funding system that allows candidates to run for office without raising private money. Seed money is an optional provision that allows candidates to raise a very limited amount of private money from individuals in order to get their campaigns off the ground before public funds are received.

Seed money was never meant to be part of the qualifying process. The qualifying process allows candidates to build on community connections and experience without regard to interest, skill or success in fundraising. We are as concerned as anyone about making sure the qualifying process is rigorous enough to ensure that only candidates with genuine support from voters receive public funds, but we do not think mandating seed money helps that effort.

Part B 3 Since seed money is such a minor part of the Clean Election system, we see no need to limit it to in-state residents. Many candidates ask family members and close friends for these limited, early contributions, and there is absolutely no harm that comes from this practice, regardless of the residence of those donors.

Raising seed money is NOT part of the qualifying process, and therefore should not be used to test whether a candidate has the support of Maine voters. Collecting \$5 Qualifying Contributions and otherwise satisfying the requirements of the qualifying process does provide that test, since Qualifying Contributions may only be made by registered voters in a candidate's district. Further limiting the already very limited seed money provision does not improve the system at all.

See the attached sheets for MCCE's comments on LD 1854's other provisions.

SUMMARY

PART A

Part A makes changes affecting campaign finance reports in the Maine Revised Statutes, Title 21-A, chapter 13. Specifically, Part A:

1. Amends the definition of "person" to remove the word "group";
2. Eliminates the requirement that the office of the Commission on Governmental Ethics and Election Practices remain open after 5:00 p.m. on election day;
3. Adds the term "domestic partner" in sections referring to a candidate's spouse and includes a definition for the term in the general definition section for Title 21-A;
4. Exempts lists of registered voters obtained by party committees from the definitions of "contributions" and "expenditures";
5. Includes facilities owned by a candidate's immediate family in determining whether an exception to expenditure is applicable;
6. Clarifies that a state party committee can provide a total of only 20 hours of assistance to a candidate in an election without making a contribution to that candidate and expands the type of service provided from "advice" to "assistance"; **MCCE appreciates the clarification of this important exemption. We were very troubled by the expansive interpretation of this provision in the 2006 cycle which allowed each and every staff member of a party to provide up to 20 hours of advice to a candidate. We do not object to the change from "advice" to "assistance," since the number of hours is so limited.**
7. Allows party candidate listings to treat federal candidates differently from other state candidates if required by federal election law and to include campaign slogans and logos;
8. Eliminates the requirement that Maine Clean Election Act candidates sign and file the voluntary spending limits statement;
9. Requires an outgoing treasurer to certify in writing the accuracy of a campaign's records;
10. Removes the requirement that the address be included in the disclosure statement in campaign communications financed by the candidate that are aired on the radio;
11. Requires that communications that name or depict a clearly identified candidate within 21 days before a primary election or 60 days before a general election contain the disclosure statement, unless the communication's purpose has a purpose other than

influencing an election; **MCCE agrees that the public benefits from disclosure and that disclosure should apply to all electioneering communications.**

12. Extends the prohibition against broadcasting communications without the disclosure statement to agents of a broadcasting station and to online versions of newspapers;

13. Extends the time period during which fines will be assessed for communications that lack the disclosure statement;

14. Establishes disclosure requirements regarding certain automated and live telephone calls to voters;

15. Clarifies that funds that are earmarked for a candidate through a conduit or intermediary are considered contributions to the candidate;

16. Clarifies expenditure limitations in legislative elections;

17. Requires that sole proprietorships and their owners be treated as a single entity for the purposes of contribution limits; **MCCE supports this provision; it is an important measure to keep contribution limits from being skirted.**

18. Removes the requirement that federal candidates and state party committees file federal campaign finance reports with the commission;

19. Revises the report filing schedule for candidates, party committees and political action committees to allow the commission to have more complete information upon which to base matching fund calculations;

20. Establishes a single 24-hour reporting requirement applicable to all candidates, party committees and political action committees;

21. Changes the amount of a campaign surplus or deficit from \$50 to \$100 that requires candidates to file semiannual reports with the commission;

22. Requires party committees to retain records of contributions and expenditures and receipts for expenditures;

23. Expands the period during which a communication that names or depicts a clearly identified candidate is presumed to be an independent expenditure to 21 days before a primary election or 60 days before a general election and requires independent expenditure reports to contain a description of the communications made; **MCCE wholeheartedly supports the extension of the “rebuttable presumption” period.**

24. Increases the fine for not registering as a candidate from \$10 to \$100 and raises the amount of the penalty waiver for a late-filed report for candidates, party committees and political action committees from \$5 to \$10;

25. Clarifies when an electronically submitted or facsimile copy is allowed;
26. Increases the triggering threshold for political action committees from \$50 to \$1,500;
27. Requires political action committees to identify, upon registering, Legislators who have a significant role in fund-raising or decision-making for the committee; **This is an important provision both in terms of disclosure to the public and also for the purpose of research and analysis of PAC activity in Maine.**
28. Requires political action committees to file an initial campaign finance report upon registering with the commission; and
29. Clarifies the conditions for dissolving a political action committee.

PART B

Part B makes changes affecting the Maine Clean Election Act in the Maine Revised Statutes, Title 21-A, chapter 14. Specifically, Part B:

1. Adds a definition of "immediate family";
2. Clarifies the requirements for a valid qualifying contribution;
3. Requires that seed money come from Maine residents only and adds restrictions in collection and use of seed money; **MCCE objects to limiting seed money contributions to Maine residents.**
4. Requires a transfer of funds to the Maine Clean Election Fund on or before September 1st of each year, instead of January 1st, beginning on September 1, 2010; **MCCE believes that it makes sense to make the transfer early enough in the fiscal year to make funds available for that year's election.**
5. Allows the commission to request an advance on the annual amount to be transferred if there will be insufficient funds for an upcoming election;
6. Clarifies that Maine Clean Election Act funds cannot be used to pay for goods and services received during the qualifying period; **We believe that this is clear in the current statute, but do not object to further clarification.**
7. Adds new conditions for certification, including whether a candidate has made material false statements to the commission or has been denied certification or had certification revoked due to substantial violations of election laws; **These are sensible measures to ensure that public funds do not go to those who violate the public trust.**
8. Requires gubernatorial candidates to raise at least \$15,000 in seed money in order to be certified and establishes procedures for the documentation of seed money contributions to

gubernatorial candidates seeking certification; **MCCE strongly objects to making seed money mandatory.**

9. Extends the period of time the commission has to certify gubernatorial candidates and allows the commission to take additional time to certify a candidate if a compliance investigation is necessary; **These are common sense changes that will do absolutely no harm.**

10. Creates a process for the commission to revoke certification; **We believe that this is a critically important provision for the long term success of Clean Elections.**

11. Increases the amount of the initial distribution to a gubernatorial candidate in the general election to \$600,000 and limits the amount of matching to an equivalent amount; **We are lukewarm about this proposal which we have not had a chance to thoroughly consider. It was brought up for the first time at the last commission meeting.**

12. Prohibits Maine Clean Election Act candidates from using public funds to pay for services provided by the candidate or immediate family members; **While we understand the concern when a candidate pays a family member with public funds, we believe candidates have the right to pay for campaign related professional services from their Clean Election distribution. We do not think it is appropriate to limit who may provide those professional services.**

13. Requires the commission staff to audit all gubernatorial candidates who receive Maine Clean Election Act funds and requires gubernatorial candidates and campaign staff to meet with the commission staff in order to discuss spending and record-keeping requirements within one month of the candidate's declaring an intention to seek public financing under the Maine Clean Election Act;

14. Clarifies the matching funds provision to include all contributions and fund distributions in calculating matching funds;

15. Clarifies the amount and timing of distributions to unenrolled candidates; and

16. Updates the provisions regarding appeals from the commission's decisions regarding certification.