



TO: The Honorable Senator Nancy B. Sullivan, Senate Chair
The Honorable Representative Pamela Jabar Trinward, House Chair
The Joint Standing Committee on Legal and Veterans Affairs

DATE: April 13, 2009

RE: **LD 1380** "An Act To Amend the Maine Clean Election Laws Governing Gubernatorial Candidates," Speaker Pingree, sponsor

Maine Citizens for Clean Elections (MCCE) testifies in support of LD 1380.

MCCE applauds the aim of this bill which is to strengthen the Clean Election program for gubernatorial candidates. We share the sponsor's goal and support several of the bill's provisions. While we are largely in agreement with this bill, we do have serious concerns regarding the increased role of private money that is proposed within it. But of the several bills that seek to rewrite the gubernatorial Clean Election system, we believe LD 1380 takes the most rational approach.

LD 1380 increases the resources that are available to candidates early in the campaign, and adds an additional hurdle to the qualifying process to make it more difficult to qualify. The bill is responsive to several concerns that we have often heard from legislators and others. First, that it is too easy to qualify, and second, that it does not provide enough resources for a winning campaign, especially early in the election cycle.

Equalizing the qualifying period. We believe that equalizing the qualifying period for all gubernatorial candidates is a worthwhile change. By establishing April 15th as the date for all candidates to qualify, it treats all candidates exactly the same way whether members of a party or unenrolled, and therefore it is fair. The earlier deadline will also give more certainty to campaign budget writers earlier in the process, which ought to be a significant benefit. Some may complain that this change would make it harder for unenrolled candidates to qualify, since under current law such candidates have until June 2nd to submit their Qualifying Contributions. Our view is that since qualified unenrolled

Member Organizations

AARP Maine, Common Cause Maine, EqualityMaine, League of Women Voters of Maine, League of Young Voters, Maine AFL-CIO, Maine Council of Churches, Maine People's Alliance/Maine People's Resource Center, Maine Women's Lobby, NAACP-Portland, Natural Resources Council of Maine, Peace Action Maine

candidates receive the same funding as party candidates (the only exception being matching funds in the primary period) it is appropriate that they meet the same qualifying standards within the same time frame.

We note that while the bill's title indicates that it amends the gubernatorial system only, it also changes the deadline for unenrolled legislative candidates. While the fairness argument does apply to legislative candidates, the budgeting rationale is not as strong since there are few unenrolled legislative candidates and the distribution they receive is much lower.

Higher initial primary distribution. LD 1380 proposes to double the initial primary distribution from \$200,000 to \$400,000, and it reduces potential matching funds to the same amount rather than double the initial distribution. This change will certainly increase the cost of the system in the primary, but we believe Clean Elections must be attractive to strong candidates in order to provide the necessary benefit to Maine people. Our many conversations with people close to gubernatorial campaigns have persuaded us that a higher early distribution is necessary if the system is to attract the strongest, most viable candidates. The bill does not increase funding in the general election which is capped at 2006 levels.¹

Much effort was made in the 123rd Legislature to make sure that marginal or fringe candidates are not able to access public funds. The qualifying bar was set higher for gubernatorial candidates, and the Ethics Commission was given specific authority to decertify candidates who do not live up to the standards required by the Act. Those efforts were important then, and they continue to be important. But keeping money from the wrong candidates is only half the challenge. If it is to fulfill its promise, the Clean Election system must provide adequate and timely resources to candidates who are prepared to run vigorous and competitive statewide campaigns.

¹ We note that under this plan, any unenrolled candidate who qualified for public funds would receive \$400,000 during the primary period, but they would not be eligible for matching funds. Current law entitles an unenrolled candidate who qualifies by April 15th to the same distribution as a primary candidate, but no unenrolled gubernatorial candidate has ever met this test. Uncontested primary candidates would also receive the same distribution but would not be eligible for matching funds. This is not a change in the law.

Mandatory Seed Money. LD 1380 requires candidates to raise at least \$40,000 of Seed Money. Seed Money was meant to be very limited private start-up money so that candidates could get their campaigns off the ground and go through the process of collecting Qualifying Contributions. We have historically opposed mandatory Seed Money because it provides a larger role for private money and introduces a fundraising component to the qualifying process. That being said, we understand that there is keen interest among legislators, administrators and others in adding this provision to the gubernatorial system.

We believe that all money raised by candidates as part of the qualifying process must come only from Maine voters, and we are pleased to see that the Speaker has made this part of her proposed revision: the full amount of mandatory seed money required to qualify as an MCEA candidate would have to come from Maine voters. We also agree with the additional accountability measures that LD 1380 includes as a part of the mandatory Seed Money scheme. Under this system, only support from verified Maine voters counts when it comes to determining who may receive public funds, and this is a key principle of the Act.

We believe that LD 1380 sets the qualifying bar so high that very few candidates will be able to get over it. To date, only five candidates in two cycles have managed to qualify, though many more have tried and failed. All who qualified felt it was extremely challenging. Between the increase in the number of required Qualifying Contributions to 3,250 (made by the 123rd Legislature) and the mandatory \$40,000 in Seed Money from Maine voters proposed in this bill, the qualifying hurdle would be significantly higher than any candidate has attempted to clear thus far.

Increase in the Seed Money cap. Last summer we asked the Ethics Commission to begin rulemaking to raise the Seed Money cap, as we understood the current \$50,000 cap to be too low for the 2010 election. We supported a doubling of the cap to \$100,000, and when the Commission proposed another increase to \$150,000 we did not object. As long as the individual contribution limits stays at \$100, and as long as contributions come only

from actual people, there is no danger of special interest money undermining the system's integrity. And increasing the Seed Money cap does not increase the cost of the program.

LD 1380 proposes an increase in the Seed Money cap to \$300,000. We believe this is too high and hope that the committee will consider decreasing it. While we are not concerned about large donors having undue influence, we are concerned that raising the cap that high dramatically increases the role of private money in our full public funding system. While candidates would find themselves on a level playing field come April 15th, there could be very wide disparities in what candidates had raised and spent prior to that date, and that would make for less parity overall.

Offsetting the cost of increased distributions. We understand that with the proposed boost of \$200,000 to the primary distribution, steps must be taken to offset the increased cost. LD 1380 proposes to offset increased funding for the primary election by raising the qualifying hurdle to restrict the number of candidates who qualify for funding. Eliminating even one candidate from the general election would save approximately \$1 million, which would be enough to offset the additional funding in the primary.

Alternative measures could be taken to bring down the cost of the program in other areas or to increase voluntary revenue to the Maine Clean Election Fund. For example, doubling the amount of the qualifying contribution from \$5 to \$10 and increasing the required number of qualifying contributions for all offices by 30% would have the potential to add an additional \$250,000 in revenue to the Maine Clean Election Fund.

Finding the right balance. LD 1380 sets a very high bar for gubernatorial candidates in 2010, much higher than it was in 2002 and 2006. We agree that candidates should be asked to demonstrate a significant amount of support among Maine voters along with a high level of organization in order to qualify, but we very much hope that the bar will not be set so high that potential candidates are dissuaded from even trying to qualify. If the committee agrees to include a mandatory Seed Money component, we ask that you consider whether \$40,000 is appropriate, or whether a lesser amount of mandatory seed money would be sufficient to accomplish the goal. We also ask the committee to consider

a lower Seed Money cap than the \$300,000 proposed in this bill. Finally, we ask the Committee to explore all alternatives to keep LD 1380 revenue neutral.

We trust that the Committee will work hard to find the right balance between the roles of private and public money, the need for the qualifying bar to be high enough but not too high, and the appropriate levels of state support and voluntary revenue to support the program. We look forward to working constructively toward our shared goals of a fiscally responsible and effective program for gubernatorial candidates in 2010.

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