



TO: The Honorable Senator Nichi Farnham, Senate Chair
The Honorable Representative Michael Beaulieu, House Chair
Joint Standing Committee on Veterans and Legal Affairs

DATE: March 28, 2011

RE: LD 726 Resolve, To Reduce Funding to Maine Clean Election Act Candidates
Sponsored by Senator Earle McCormick

Maine Citizens for Clean Elections testifies in opposition to LD 726.

In prior years, Clean Election candidate distributions were based simply on the average of what was spent in similar races over the last two election cycles. Thanks to legislative action, there is now a more flexible formula in place, one that allows the Ethics Commission to consider more factors, including what it actually costs to purchase the goods and services used in a typical Maine campaign.

While we understand and appreciate Senator McCormick's desire to lower the cost of the program, we ask that this new distribution formula be given a chance to work. Prior legislatures trimmed distributions because of a stagnant economy, and the amounts today are close to what they were in the very early days of Clean Elections, particularly in House races. It may not be realistic to think that cutting distribution amounts while the cost of everything from gasoline to paper to printing rises will result in a viable system.

One of the reasons MCCE strongly supported the new method of determining distribution amounts is that in prior years outliers – the biggest spenders and the lowest spenders – skewed the numbers. Also, matching funds made in some races raised the base number for all races. And on top of that, some candidates felt pressure to spend their entire distribution

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 State Employees Association/SEIU Local 1989, Maine Women's Lobby, NAACP-Portland, Sierra Club Maine Chapter

even though they, like Senator McCormick, didn't need it, because they worried that future candidates would not have enough. This perverse incentive to spend more money than necessary is gone under the new system.

This fall, the Commission will apply a range of objective criteria to reset the numbers. We think it makes a lot of sense to simply allow this new process a chance to work.

MCCE urges the committee to consider the danger of allowing the distributions to fall too low. First, the amounts must be enough to run a viable race. It's true that one size does not fit all, but if the amount is a little too high for a popular incumbent like Senator McCormick, then it is a safe bet that it is about right for a first-time candidate. No candidate has to spend the whole distribution, but if they need it, there it is.

Second, unrealistically low numbers will protect incumbent legislators from vigorous challenges. Incumbency protection is not a goal of the Clean Election system. It would be a serious mistake to undermine a fundamental purpose of the Act by chronically underfunding the system.

Third, even though the Clean Election system is voluntary, constitutional principles must be a concern. "Starving the system" would weaken the strong First Amendment values that the Act is designed to enhance. From a First Amendment perspective, erring on the side of higher distributions makes sense. MCCE does not advocate for padding the distributions, but we do think it is absolutely critical that candidates be able to reach voters and get their message out in a campaign. Without the ability to raise additional private money or reach into their own pockets, they must rely solely on what they receive from the Maine Clean Election Fund.

We don't run campaigns ourselves, but we have many conversations with candidates, legislators, and campaign workers about the Clean Election system and campaign finance laws in general. We know that in very large rural districts, candidates need more money for gas,

and they rely more heavily on paid communications because of the great distance between voters. The system must be adequate for these races, too. We also know of many candidates who return sizable sums to the Ethics Commission, and they are inevitably incumbents. That happens in each cycle, and we expect it will continue to happen in some races.

Our Clean Election system has worked well for a decade because it has provided adequate resources to the candidates who qualify to receive public funds. Not all win, but most find that they are able to run a credible race with plenty of voter contact. That's the way it should be. Systematically low distributions would advantage incumbents and reduce voter contact and voter choice. These are unacceptable and avoidable policy outcomes.

Distribution amounts are a Goldilocks problem – we are seeking numbers that are “just right.” Let's give the new method of establishing distribution amounts a try.

We respectfully ask you to vote OUGHT NOT TO PASS on LD 726.

Alison Smith
Co-president, MCCE