



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 814 An Act Relating to Political Action Committees in Maine
Sponsored by Representative Michael Carey

Maine Citizens for Clean Elections (MCCE) testifies in strong support of LD 814.

Maine is currently the only New England state and is one of only 12 or 13 states in the country that does not have any contribution limits to political action committees (PACs). This is particularly troublesome given our otherwise excellent campaign finance laws. It's time to take action to fix this problem. LD 814 proposes a package of contribution limits to PACs.

Thanks to the passage of citizen-initiated campaign finance reforms in 1996, candidates no longer receive large contributions for their campaigns. Between the Maine Clean Election Act and lower contribution limits for privately funded candidates, we have successfully eliminated "big money" from state races. But PACs remain an easy conduit for "big money" to reach candidate campaigns. Today, no contribution is too big for a PAC to accept.

- ✓ In 2006, one wealthy donor made a contribution of \$250,000 to a PAC – a quarter of a million dollar donation that was perfectly legal, and all of it was spent in one candidate's race. Perfectly legal under Maine law.
- ✓ In 2010 one donor gave almost \$400,000 over the course of the campaign to a multi-candidate PAC which spent in many candidate races. Again, perfectly legal.

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

MCCE believes that the state can and should limit the amount of money that any individual entity may give to PACs that aim to influence the outcome of candidate races. The bill defines such PACs as “candidate political action committees” to differentiate them from PACs that only raise and spend money on ballot initiatives. We believe that regulating issue PACs raises more and different constitutional questions, and this bill does not change their status.

Courts have allowed contribution limits to PACs in states where there are limits on what individuals may give to a candidate. They have rightly seen that the failure to impose a parallel limitation on PACs simply creates an opportunity for donors to skirt contribution limits and make unlimited contributions to an affiliated PAC. This is the case here in Maine, where donors may only give \$350 or \$750 to a privately funded candidate for state office and only \$100 in Seed Money to a publicly funded candidate, but may make unlimited contributions to PACs that help – and in some cases are controlled by – those same candidates.¹

In proposing these limits, we are guided by advice to reformers in *Writing Reform*, an excellent resource developed by the Brennan Center for Justice. Of contribution limits to PACs, *Writing Reform* advises that, as with candidate contribution limits, the constitutionality will rest in part on whether the limits are not so low as to prevent adequate resources from being raised. “If constitutional limits are in place on individual contributions to candidates, limits on contributions to PACs should be upheld as an anti-evasion measure. Nevertheless, courts in some jurisdictions may separately assess whether limits on contributions to PACs are so low that they make it difficult for PACs to raise money and participate in the political process. It is therefore advisable to set limits high enough to withstand such scrutiny – at least at the level of individual contribution limits, and usually somewhat higher, to reflect the PAC’s role as a proxy for contributors who have pooled their funds.” At the same time, the

¹ Maine also has an aggregate limit of what a donor may give to all candidates (\$25,000 per calendar year).

limits must serve the purpose of limiting corruption and its appearance, as well as limiting undue influence.

INDIVIDUAL LIMITS OF \$1,000 AND \$10,000. LD 814 imposes a limit on what an individual may give to candidate PACs. It combines a contribution limit of \$1,000 to one PAC with an aggregate limit of \$10,000 from that same individual to all PACs in a given 2-year election cycle. These limits are paired because an individual contribution limit alone could result in a proliferation of PACs, which would render the limit moot. An analysis in 2007 showed that under such limits, 92% of donors to PACs would be able to give what they currently give, but the largest contributions would be dramatically decreased.

PAC-TO-PAC LIMIT OF \$25,000. The bill imposes an aggregate limit on what PACs may give to other candidate PACs. Such PACs could give to one or several PACs in a given 2-year election cycle, but would be limited to \$25,000 in total. PAC-to-PAC transfers are legitimate, but can become something of a shell game, muddying disclosure in the process. We believe that this limit is important as part of the overall anti-evasion rationale for these reforms.

There are several other ideas that will be heard today that also amend our PAC laws, and there are more to be heard over the next weeks. We welcome a full vetting of all the ideas. We hope you will consider LD 814 to be a good starting point for your discussion. We have wrestled with the various dimensions of PAC reform for quite a few years, and we always come back to contribution limits as a fundamental reform. Without them, other reforms will have very limited effect.

We thank Representative Carey and the co-sponsors for bringing forward this bill, and we look forward to a robust conversation in the coming weeks.

Thank you.

Alison Smith, Co-President