



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Interested Persons
From: Jonathan Wayne, Executive Director
Date: June 30, 2009
Re: Summary of Proposed Changes to Ethics Commission Rules

Chapter 1

Section 2(2)(A) – Location of Commission Office

The Commission proposes updating the reference to the Commission's location to be consistent with the Commission's new office space at 45 Memorial Circle in Augusta.

Section 3(1) – Regular Meetings of the Commission

Under the proposed change to Section 3(1), the Commission would select its meeting dates for an election year at the Commission's meeting in January of that year. The Commission would be required to adhere to the selected dates unless the Commission changed the dates at a properly called meeting. In other (odd-numbered) years, the Chair would call an organizational meeting at which the Commission would set monthly meeting dates which best appear to meet the needs of the Commission.

Section 3(2) – Special Meetings of the Commission

If the Commission holds a special meeting, each member of the Commission must receive, if possible, written notice of the time, place, and purpose of the meeting at least 24 hours before the meeting. If not possible, the Commission staff must give notice to the Commissioners by phone, fax, e-mail or other means. Each Commissioner may notify the staff of his or her preference for notification. The Commission staff would prepare a log of the notices which the staff has provided to the Commissioners.

Section 3(3) – Agenda for Commission Meeting

After preparing the agenda for a Commission meeting, the Executive Director would mail the agenda to each Commissioner at least seven days before the meeting. The Chair of the Commission may approve a different schedule for the mailing of the agenda, if the Chair provides notice to the other Commissioners of the change in schedule and the reasons for the change.

Section 6(7) – Contributions Received by a Candidate before a Primary Election

Under the Commission's current rule, any contributions received by a candidate before a primary election are deemed to be for the primary. Thus, a contributor who wishes to contribute for both the primary and the general election must wait until after the primary to make the general election contribution.

In Chapter 286 of the Public Laws of 2009, the Legislature directed the Commission to adopt a rule that allows candidates to accept contributions to be used for a general election

during the primary election period, provided that the contributions are segregated from primary election funds and the candidate designates the contribution in campaign finance reports to be for the general election.

Section 6(8) – Contributions by Minors

Candidates for state office in Maine are under contribution limitations that are among the strictest in the nation. Beginning September 12, 2009, a contributor may give up to \$350 per election to a legislative or county candidate and up to \$750 per election to a gubernatorial candidate. Candidates seeking to qualify for Maine Clean Election Act funding may collect seed money contributions of up to \$100 per contributor at the beginning of their campaigns. In the 2010 elections, candidates for Governor seeking Maine Clean Election Act (MCEA) funding will be *required* to collect at least \$40,000 in seed money contributions.

Given these limitations, the Commission proposes a rule amendment that would set forth standards for when a candidate may attribute a contribution to a minor (an individual of 17 years or younger). The amendment is based on a federal regulation (11 C.F.R. 110.19). Under this regulation, a minor may make a campaign contribution if the minor makes the decision to contribute knowingly and voluntarily, the funds for the contribution are owned or controlled by the minor, and the funds do not consist of a gift provided to the minor for purposes of allowing the minor to make a contribution.

Section 11 – Reporting Schedule for Ballot Question Committees

Under 21-A M.R.S.A. § 1056-B(1), ballot question committees are organizations other than political action committees (PACs) which spend more than \$5,000 to influence a ballot question. In Chapter 190 of the Public Laws of 2009, the Legislature amended § 1056-B(1) so that ballot question committees are required by statute to file reports according to the same schedule as PACs. The Legislature also deleted the requirement that the Commission establish a filing schedule for ballot question committees. Accordingly, the Commission proposes to delete Section 11 from Chapter 1 of the Commission's rules.

Section 12(2) – Contributions from Lobbyists During the Legislative Session

In Chapter 286, the Legislature clarified that a political action committee (PAC) may not accept a contribution from a lobbyist during the legislative session if a member of the Maine Legislature or other covered official is a treasurer, officer, or primary fundraiser or decision-maker of the PAC. The Commission proposes changes to Section 12(2) to be consistent with these statutory changes.

Chapter 3

Section 2(3)(B) and C – Seed Money Contributions for Candidates for Governor

The Commission proposes changes to these sections to be consistent with Chapter 363 of the Public Laws of 2009. Under Sections 2 and 5 of the law, a gubernatorial candidate seeking Maine Clean Election Act funding could collect up to a maximum of \$200,000 in seed money contributions and would be *required* to collect up to \$40,000 in seed money from registered Maine voters.

Section 2(F) – Verification of Voter Registration for Qualifying Contributors

In 2008, as authorized by 21-A M.R.S.A. § 1125(3), the Commission began permitting Maine voters to make \$5 qualifying contributions to MCEA candidates with a credit or debit card on the Commission’s website. For the 2010 elections, the Commission staff intends that the Commission’s website will verify whether a contributor is registered to vote in Maine by comparing the name and address of the contributor to information derived from Maine’s Central Voter Registration System. This operational change is reflected in the proposed rule.

Section 3(1) – Requesting Certification as a Maine Clean Election Act Candidate

Under Chapter 363, Section 3, gubernatorial candidates seeking MCEA funding must obtain certain documents for the required \$40,000 in seed money contributions provided by registered Maine voters, such as a written acknowledgement card signed by the contributor. The documents relating to these contributions must be submitted to the Commission during the qualifying period. The Commission proposes a change to the Commission’s rule to reflect the new requirement.

Section 4(4) – Permitting MCEA Candidates to Accept Contributions

Under the design of the MCEA, candidates in the public financing program are generally forbidden from accepting contributions. The MCEA contains an exception if the Commission determines that the revenues in the Maine Clean Election Fund may be insufficient to make payments to candidates. (21-A M.R.S.A. § 1125(13)) In that case, the Commission may authorize candidates to accept and to spend contributions.

In Resolve Chapter 128, the Legislature directed the Commission to adopt a rule implementing § 1125(13). In fact, the Commission already has an existing rule that addresses the statute (Section 4(4)). The Commission proposes changes to the rule to improve its operation in the 2010 elections, if necessary.

In the proposed rule amendment, the Commission proposes that the MCEA expenditure guidelines *would* apply to the spending of campaign contributions raised by MCEA candidates.

Section 5(3)(G) – Matching Funds Maximum

In Chapter 363, the Legislature amended the maximum amounts of matching funds which gubernatorial candidates may receive in the primary election. The Commission staff proposes a change in this section to be consistent with statute.

Section 5(3)(K) – Calculating Matching Funds if an MCEA Candidate is Authorized to Accept Campaign Contributions.

The calculation of matching funds is determined by 21-A M.R.S.A. § 1125(9). Under the rule amendment proposed by the Commission, if the Commission has authorized an MCEA candidate to accept traditional campaign contributions, those contributions are counted toward that candidate’s total revenues for purposes of calculating matching funds in that race.

Thank you for your consideration of these proposed rule amendments.