

Agenda

Item #4



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

## MEMORANDUM

To: Interested Parties

From: Jonathan Wayne, Executive Director

Date: September 3, 2008

Subject: Opportunity to Comment on Proposed Rule Amendment

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The Ethics Commission is soliciting comments on a proposed change to the Commission's Rules. In case you are interested in commenting, I have enclosed a copy of the proposed amendment.

The amendment would increase the maximum amount of seed money contributions which gubernatorial candidates seeking Maine Clean Election Act funding could receive during the qualifying period from \$50,000 to \$100,000. The Commission is authorized to revise this amount under 21-A M.R.S.A. § 1125(2). If adopted, the rule would provide greater flexibility to gubernatorial candidates to collect seed money required to operate their campaigns prior to receiving public funding.

**The Commission will hold a public hearing on Monday, September 29 at 9:00 a.m. at which you are invited to comment on the changes to the rules.** The public hearing will be held in Room 208 of the Burton M. Cross Office Building, 111 Sewall Street in Augusta. Written and e-mailed comments are also welcome. (My e-mail address is [Jonathan.Wayne@maine.gov](mailto:Jonathan.Wayne@maine.gov).) The deadline for written and e-mailed comments is 5:00 p.m. on October 14, 2008.

The Commission will make any amendment to its rules at its October 27, 2008 meeting. The rule change would be considered major substantive, and would be submitted to the Legislature for its consideration following the Commission's October meeting.

If you have any questions, please telephone me at 287-4179. Thank you for your consideration of the proposed amendments.

94-270

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Chapter 3: MAINE CLEAN ELECTION ACT AND RELATED PROVISIONS

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SECTION 2(3) . Seed Money Restrictions

- A. **General.** After becoming a candidate and before certification, a participating candidate may collect and spend only seed money contributions. The restrictions on seed money contributions apply to both cash and in-kind contributions.
- B. **Total Amount**
- (1) A participating candidate must limit the candidate's total seed money contributions to the following amounts:
    - (a) One hundred  ~~fifty~~ thousand dollars for a gubernatorial candidate;
    - (b) one thousand five hundred dollars for a candidate for the State Senate; or
    - (c) five hundred dollars for a candidate for the State House of Representatives.
  - (2) Notwithstanding any other provision of this chapter, a candidate may carry forward to a new candidacy of that candidate campaign equipment or property, subject to the reporting requirements of Title 21-A, chapter 13 [Campaign Reports and Finances].
  - (3) The Commission periodically will review these limitations and, through rulemaking, revise these amounts to ensure effective implementation of the Act.
- C. **Campaign surplus.** A candidate who has carried forward campaign surplus according to Title 21-A, chapter 13, subchapter II [§1017(8) and §1017(9)], and who intends to become a participating candidate, must dispose of campaign surplus in accordance with the requirements of Title 21-A, chapter 13, subchapter II [§1017(8)]; provided, however, that a candidate may carry forward only those portions of campaign surplus that comply with the provisions of this Act regarding seed money contributions [§§ 1122(9) and 1125(2)]. Any campaign surplus (excluding campaign equipment or property) carried forward under this provision will be counted toward that candidate's total seed money limit.

INFORMATIONAL NOTE: The Commission will provide educational materials to all former candidates who have a campaign surplus describing the requirement that individuals must dispose of campaign surplus to remain eligible for participation as a Maine Clean Election Act candidate.

- D. **Return of Contributions Not in Compliance with Seed Money Restrictions.**  
A participating candidate who receives a contribution exceeding the seed money

per donor restriction or the total amount restriction must immediately return the contribution and may not cash, deposit, or otherwise use the contribution.

- E. **Case-by-Case Exception.** A participating candidate who has accepted contributions or made expenditures that do not comply with seed money restrictions may petition the Commission to remain eligible for certification as a Maine Clean Election Act candidate. The Commission may approve the petition and restore a candidate's eligibility for certification if the candidate successfully establishes all of the following criteria:
- (1) the failure to comply was the result of an unintentional error;
  - (2) the candidate immediately returned all contributions that did not comply with seed money restrictions or paid for goods or services contributed that did not comply with seed money restrictions;
  - (3) the candidate petitioned the Commission promptly upon becoming aware of the unintentional error; and
  - (4) the failure to comply did not involve expenditures by the participating candidate significantly in excess of seed money total amount restrictions or otherwise constitute systematic or significant infractions of seed money restrictions.
- F. After becoming a candidate and prior to certification, accepting a loan from any source including a financial institution and spending money received in the form of a loan, are violations of the seed money restrictions of the Act.
- G. **Other.** A seed money contributor may also make a qualifying contribution to the same participating candidate provided that the contributor otherwise meets the requirements for making a qualifying contribution.

**ADDITIONAL MATERIALS**

**Item: 4**

**September 29, 2008**

*Beth Edmonds  
President of the Senate  
3 State House Station  
Augusta, ME 04333-0003  
(207) 287-1500  
Fax (207) 287-5862*



**RECEIVED**

**SEP 26 2008**

**MAINE ETHICS COMMISSION**

September 24, 2008

Jonathan Wayne  
Executive Director  
Commission on Governmental Ethics and Election Practices  
132 Statehouse Station  
Augusta, ME 04333-0135

Re: Seed Money Contributions for Gubernatorial Candidates

Dear Mr. Wayne:

Thank you for your memo of September 3, 2008 inviting comment on proposed rule amendments regarding seed money contributions for gubernatorial candidates. I appreciate the Commission's interest in this subject and welcome the opportunity to share my thoughts.

**Maine Clean Elections Act**

I was among those who initially supported and fought for adoption of the Maine Clean Elections Act. Our goal was to improve Maine's electoral system by making it possible for candidates to seek public office without having to raise private funds. To date, the Act has been very successful in legislative races, but has a mixed record in gubernatorial races.

Significantly, the incumbent Governor chose not to run under the Act during his bid for re-election in 2006. That is a complex decision and I do not mean to imply any criticism of his choice. I do, however, want to see the Act implemented in such a way that gubernatorial candidates can both participate in the Act and run competitive campaigns. *I strongly believe the proposed rule before you is a positive step in that direction and should be adopted.*

Jonathan Wayne  
September 24, 2008  
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### Funding for Gubernatorial Campaigns

Under current rules, Maine Clean Election Act candidates for Governor are entitled to four separate and distinct sources of funding. First, they may raise seed money up to the limit set by the Commission, currently \$50,000. This proposal would raise that figure to \$100,000. Doing so will test a candidate's viability and support and allow him or her to better prepare for the campaign. Also, the additional seed money will assist candidates in gathering the 3,250 qualifying contributions necessary to participate in the Act.

Second, if they are in a competitive primary they will receive \$200,000 in funding for the primary campaign. Third, they will receive \$600,000 for the general election campaign. Clearly, the extra \$50,000 this rule change would make available is not enough to make or break a campaign, but it will provide additional resources at the start of the campaign, when they are most helpful. It would reward the most organized and prepared candidates. That is a good thing, because it is also a measure of their ability to govern if elected.

Finally, candidates are eligible for matching money, up to two times the amount of the initial fund distribution, when third party expenditures are made on behalf of their opponent(s) during the primary or general elections. Again, the larger amount of seed money allowed by this change would allow organized candidates to prepare to make the best use of any matching funds that appear during the campaign.

In sum, allowing this rule change will strengthen the Maine Clean Elections Act by encouraging participation in the Act and by rewarding the most organized and prepared candidates. The result will be an overall reduction in special interest money and the fairest possible elections.

The Maine Clean Elections Act is a national model. This amendment, by strengthening the Act, will assist Maine in remaining a national leader in election form. Please adopt the proposed rule amendment for seed money contributions to gubernatorial candidates.

Sincerely,

A handwritten signature in black ink that reads "Beth Edmonds/MIH". The signature is written in a cursive style with a clear, legible font.

Beth Edmonds  
President of the Senate

Cc: Joy J. O'Brien, Secretary of the Senate