



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

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Minutes of the March 24th, 2005 meeting of the
Commission on Governmental Ethics and Election Practices
Held in the Commission's Meeting Room,
PUC Building, 242 State Street, Augusta, Maine

Present: Chair James Donnelly; Hon. Jean Ginn Marvin; Staff: Executive Director Jonathan Wayne; Counsel Phyllis Gardiner.

Note: Due to the fact that this was a public comments hearing, and no vote was being taken, a quorum was not required.

At 9:10 a.m., Chair Donnelly convened the meeting. Mr. Donnelly stated that two of the commission members were unable to attend, and that the new commission member, Michael Bigos, was not confirmed yet. However, all three would be receiving recordings of this meeting so that the entire Commission would be up to date.

Arn Pearson, Director of the Maine Citizen's Leadership Fund, took the floor. He stated that, in general, he felt the Commission staff had done an excellent job with the rules, and that overall he supported the rule changes. He also stated that his group would be submitting written comments as well. He brought up Chapter 1, Section 6-Contributions, and said that in Subsection 2, sub paragraph 3 did a much better job at explaining what an in-kind contribution was. He also stated that sub paragraph 4, which clarified when something is counted as an in-kind contribution, was very helpful. Mr. Pearson expressed his differences with sub paragraph 6, which he felt exceeded the scope of rule making authority that it differed from traditional interpretation of statute, and that recounts should be dealt with in statutes. He felt that if the Commission did not treat money raised for recounts as contributions, there would be no way to find out where the money came from. He then talked about Section 7-Expenditures, Subsection 3A. He said that it would be worthwhile if the Commission clarifies multi-expenditure mailings. He suggested that reserving print space for broadcast advertising should be added to the list of expenditures requiring disclosure.

Mr. Donnelly asked about how the Commission would handle obligations and matching funds. Mr. Pearson said it was a good question, and that it was a tricky issue to work out. Mr. Donnelly thought this would become very important for the 2006 gubernatorial race. Mr. Pearson said that there had been some discussion as to proposing a rule that would prevent people from obligating more money than they had to spend at the time of the obligation, but that as of now the issue was undecided.

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Mr. Pearson mentioned sub-paragraph 8, and suggested striking the last sentence because he felt it would hurt more than help in terms of trying to list what is not acceptable. Sub paragraph C he thought was very important for future guidance. He then talked about Section 10-Independent Expenditures. Sub section 3A, he noted that the reporting schedule mirrors the PAC deadlines, and that it would be easier for a PAC to do two reports at the same time. He also noted that if someone made an independent expenditure in September, they wouldn't have to report it until 12 days before the election. This could allow someone to forget that they made the expenditure back in September and hence fail to report it. In Sub sections 4a-c. Mr. Pearson felt that the examples given should be struck and that instead a guidance memo should be sent which lists the examples. He explained that this was for simplicity and to help others understand the rules as well as being able to focus on the examples given. Mr. Donnelly stated that he felt it would be difficult trying to measure content with independent expenditures, but that his opinion was not the prevailing one when this issue was voted on. Mr. Pearson replied he could understand the approach the Commission voted to take but that the effort necessary to come to a determination would be great. Mr. Pearson also stated that calculating the exact cost of various ads would be difficult at best. Subsection 5b was another point which Mr. Pearson thought would be better as a guidance memo instead of putting it into rule. In particular Mr. Pearson mentioned the sub paragraph 2 as a potential conflict. He also had issues with subsection 1 and the 25 candidate listing limit, and said that he felt that it went beyond rule making authority.

Mr. Pearson asked why getting a loan is a violation of the seed money restrictions. Mr. Donnelly replied that the Commission, based on an actual situation in the 2004 election, did not want to be in a situation where a candidate takes a loan expecting to repay the loan with seed money, and then doesn't have enough money to pay back the loan and having to deal with the consequences. Mr. Pearson stated that Subsection 5 and 6, which gave the Commission the ability to look beyond the literal meaning of the language, was important for correct decisions and to prevent people from manipulating the rules. Chapter 3 subsection 6 paragraph 4 was important because it clarified that you can't use clean election funds to resell items for personal profit.

Mr. Donnelly commended Ms. Ginn Marvin in her effort and dedication to come and attend the public hearing in light of her serious foot injury.

Abby Holman, from the Alliance for Maine's Future, took the floor. She stated that the staff did an excellent job with the revised rules. Chapter 1, section 1, she believed the definitions of "member" and "association" were not clear. A "member" is someone who pays annually to an organization, and she believed that the definition was too narrow. Many associations that have members do not require dues to be paid, so she believed that the definition should be changed to include expressed clear interest. She also stated that groups shouldn't be able to claim extra people as being members of their organization. In Section 7, subsection 3-Expenditures, she had concerns over the reporting of an independent expenditure based on an obligation, only to find out after the fact the actual cost of the expenditure was different than what was reported. Ms. Ginn Marvin asked why a candidate or group couldn't request an actual invoice from a vendor at the time of the agreement. Ms. Holman said it could delay payment, as well as cause issues for the buyer and the vendor. In section 10, Subsection 3, she expressed her concerns about reporting minimal amounts over the \$100 threshold, such as 65 cents or \$10 dollars. She also



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requested examples of these situations, and stated that independent expenditures really needed examples so that more people could understand how to follow the rules and laws. In Subsection 4, she felt that it needed to be clear that this rule only applies if it was an independent expenditure. She also expressed her opinion that trying to figure out the exact value of an ad or independent expenditure would be extremely difficult, based on value of picture/text, geographic distribution, etc. Ms. Holman mentioned sub paragraph 2 involving conversations between two people as being potentially difficult to enforce. She felt that taking out examples and putting them into a guidance memo didn't necessarily help people to understand, and that she would prefer them to be all in one place. Ms. Holman mentioned Section 5c and asked how you would report when you go over \$100 in aggregate. Ms. Holman also stated that Section 5f would cause double reporting.

Tim Belcher, from Maine State Employer's Association, took the floor. He stated that the staff did a great job at clarifying certain definitions and rules. He noted that the definition of a member, in his opinion, allowed someone to be considered a member even if they didn't pay dues, because under subsection c if they have a significant organizational attachment, then they are considered a member. Mr. Belcher said it was important to have some kind of rule as to who can be considered a member of an entity or organization. He expressed his concerns under Section 10 subsection 5 b1 involving voter records and lists as well as conversations between two people.

Mr. Donnelly announced that the staff would be receiving written comments until 5:00 PM on April 4th, so if anyone had something to contribute, they should feel free to do so.

With no further business, the Commission adjourned.

Respectfully submitted,

Jonathan Wayne
Executive Director