



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 JW

Date: March 10, 2005

Re: Proposed Rule Amendment on Last-Minute Expenditures

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Following the 2004 general election, the Ethics Commission received feedback from candidates that independent expenditures by third-parties were reported to the Commission so close to the general election that Maine Clean Election Act candidates received matching funds too late to be useful. Fifty-eight of 70 independent expenditure reports filed for the general election were submitted in the last eight days before the election.

In order to verify that independent expenditures have been reported on time, the Commission is considering the attached rule amendment that would require political action committees (PACs), party committees, and other independent spenders to provide additional information if they file an independent expenditure report after the eighth day before an election. Reports filed on or before the eighth day would not require this information.

The Commission also intends to better educate PACs and others in the 2006 elections that independent expenditures must be reported *when obligations to vendors are incurred*, rather than when payments are made to the vendors.

**The Commission will hold a public hearing on Thursday, March 24 at 9:00 a.m. at which you are invited to comment on the proposed rule amendment attached to this memo, as well as the proposed amendments previously posted for public comment.** Written and e-mailed comments are also welcome. (My e-mail address is Jonathan.Wayne@Maine.gov.) **The deadline for written and e-mailed comments is 5:00 p.m. on April 4.**

Please be advised that the meeting date at which the Commission anticipates adopting final rule amendments has been changed to **Friday, April 8 at 9:00 a.m.** If you have any questions, please telephone me at 287-4179. Thank you for your consideration of the proposed amendments.

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

**Proposed Revision to Rule Amendments Posted for Public Comment  
(please see proposed language in bold in subsection 3(C), which would require the disclosure of additional information regarding independent expenditures reported after the eighth day before the election)**

**SECTION 810. REPORTS OF INDEPENDENT EXPENDITURES**

1. General. Any person, party committee, political committee or political action committee that makes an independent expenditure aggregating in excess of \$100 in an election must file a report with the Commission according to this section.
2. Definitions. For purposes of this section, the following phrases are defined as follows:
  - A. "Clearly identified," with respect to a candidate, has the same meaning as in Title 21-A, chapter 13, subchapter II.
  - B. "Expressly advocate" means any communication that uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!".
  - C. "Independent expenditure" has the same meaning as in Title 21-A, section 1019-B. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate and is not an independent expenditure.
3. Reporting Schedules. Independent expenditures must be reported to the Commission in accordance with the following provisions:
  - A. Independent expenditures aggregating in excess of \$100 per candidate per election but not in excess of \$250 made by any person, party committee, political committee or political action committee must be reported to the Commission no later than the 12<sup>th</sup> day before the election is held, or within 24 hours of the expenditure, whichever is later. ~~in accordance with the following reporting schedule.~~

~~(1) — Quarterly Reports.~~

- ~~(a) A report must be filed on January 15th and be complete as of January 5th;~~
- ~~(b) A report must be filed on April 10th and be complete as of March 31st;~~
- ~~(c) A report must be filed on July 15th and be complete as of July 5th; and~~
- ~~(d) A report must be filed on October 10th and be complete as of September 30th.~~

~~(2) Pre and Post-Election Reports.~~

- ~~(a) A report must be filed on the 6th day before the election is held and be complete as of the 12th day before the election.~~
- ~~(b) A report must be filed on the 42nd day after the election is held and be complete as of the 35th day after the election.~~

- B. Independent expenditures aggregating in excess of \$250 per candidate per election made by any person, party committee, political committee or political action committee must be reported to the Commission within 24 hours of those expenditures. Additional reports are required for subsequent increments of independent expenditures aggregating in excess of \$250 within 24 hours of those expenditures.
- C. Reports must contain information as required by Title 21-A, chapter 13, subchapter II (§§ 1016-1017-A), and must clearly identify the candidate and indicate whether the expenditure was made in support of or in opposition to the candidate. **Reports filed after the eighth day before an election must include the following information:**
- 1. the date on which the person making the expenditure first contacted the vendor about providing goods or services in connection with the communication;**
  - 2. the date on which the person making the expenditure placed any order with the vendor for the goods or services;**
  - 3. the period of time in which the vendor provided the goods or services;**
  - 4. the date on which the person making the expenditure first learned of the total amount of the expenditure; and**
  - 5. a statement why the expenditure could not be reported by the eighth day before the election.**