

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by inserting after the title and before the enacting clause the following:

**Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** legislation enacted during the First Regular Session of the 123rd Legislature created an error in statute regarding qualifying contributions under the Maine Clean Election Act; and

**Whereas,** proper oversight of the collection of qualifying contributions is necessary to ensure appropriate distribution of taxpayer funds under the Maine Clean Election Act; and

**Whereas,** the 2008 election cycle for candidates for the 124th Legislature is already underway; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill by striking out all of sections 2 and 3 (page 1, lines 14 to 39 and page 2, lines 1 and 2 in L.D.) and inserting the following:

**Sec. 2. 1 MRSA §1002, sub-§2-A** is enacted to read:

**2-A. Conflict of interest.** This subsection governs conflicts of interest of members of the commission.

A. A member of the commission has a conflict of interest in a matter before the commission if the member has a business or close political relationship with a party to the matter. A close political relationship exists when a member has significant past or ongoing involvement with a political committee or a candidate, as defined in Title 21-A, section 1, subsection 30 and subsection 5, respectively, or other organization involved in the matter, that would lead a reasonable person to believe that the member is unable to objectively consider the matter. A close political relationship is not created by making a contribution to a political committee, organization or candidate; party enrollment status; or mere membership in an organization involved in the matter.

B. If members of the commission have a conflict of interest in a matter before the commission, the members shall recuse themselves from the matter and may not vote on or attempt to influence the outcome of the matter. Whether or not recusal is required under this paragraph, members of the commission shall consider recusing themselves from any matter that would give rise to an appearance of a conflict of interest.

**Sec. 3. 1 MRSA §1002, sub-§2-B** is enacted to read:

**2-B. Annual disclosure statement.** Each member shall file a disclosure statement with the executive director of the commission by February 15th of each year, which must include:

A. The names of and the positions held in all candidate committees, political action committees, ballot question committees and party committees of which the member or the member's spouse or domestic partner was an officer, director or primary decision maker or fund raiser during the previous calendar year;

B. The names of and positions held in all nonprofit or commercial organizations of which the member or the member's spouse or domestic partner was an owner, officer, director or primary decision maker or fund raiser that, during the previous calendar year, made expenditures of more than \$1,500 to influence an election or employed a lobbyist who was required to register with the commission; and

C. Any additional information that the commission determines appropriate.

A member shall notify the executive director if the member becomes an officer, director, employee or primary decision maker or fund raiser of a party committee, political action committee, ballot question committee or candidate committee within 21 days of the event.'

Amend the bill by inserting after section 3 the following:

**'Sec. 4. 1 MRSA §1002, sub-§7** is enacted to read:

**7. Removal of members.** A member of the commission may be removed by the Governor for inefficiency, willful neglect of duty, malfeasance in office, engaging in prohibited activities or failure to continually meet the qualifications set out by this section or to comply with the disclosure requirements, but only with the review and concurrence of the joint standing committee of the Legislature having jurisdiction over election practices and legislative ethics upon hearing in executive session, or impeachment by the Legislature. Before removing a board member, the Governor shall notify the President of the Senate and the Speaker of the House of Representatives of the removal and the reasons for the removal.'

Amend the bill by striking out all of section 5 and inserting the following:

**'Sec. 5. 21-A MRSA §1003, sub-§3-A** is enacted to read:

**3-A. Confidential records.** Investigative working papers of the commission are confidential and may not be disclosed to any person except the members and staff of the commission, the subject of the audit or investigation, other entities as necessary for the conduct of an audit or investigation and law enforcement and other agencies for purposes of reporting, investigating or prosecuting a criminal or civil violation. For purposes of this subsection, "investigative working papers" means documents, records and other printed or electronic information in the following limited categories that are acquired, prepared or maintained by the commission during the conduct of an investigation or audit:

A. Financial information not normally available to the public;

- B. Information belonging to a party committee, political action committee, ballot question committee, candidate or candidate's authorized committee that, if disclosed, would reveal sensitive political or campaign information;
- C. Information or records subject to a privilege against discovery or use as evidence; and
- D. Intra-agency or interagency communications related to an audit or investigation.

The commission may disclose investigative working papers, except for the information or records subject to a privilege against discovery or use as evidence, in a final audit or investigation report or determination if the information or record is materially relevant to a finding of fact or violation.'

Amend the bill by inserting after section 8 the following:

**'Sec. 9. 21-A MRSA §1122, sub-§9,** as amended by PL 2007, c. 443, Pt. B, §3, is further amended to read:

**9. Seed money contribution.** "Seed money contribution" means a contribution of no more than \$100 per individual made to a participating candidate, including the candidate or the candidate's spouse or domestic partner.'

Amend the bill in section 9 in subsection 3 in the next to last paragraph by striking out the last sentence (page 4, lines 18 to 22 in L.D.) and inserting the following: 'Records containing information provided by individuals who have made qualifying contributions over the Internet are confidential, except for the name of the individual making the contribution, the date of the contribution, the individual's residential address and the name and office sought of the candidate in whose support the contribution was made.'

Amend the bill by adding before the summary the following:

**'Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

## SUMMARY

This amendment adds language requiring disclosure statements from members of the Commission on Governmental Ethics and Election Practices and clarifies a process established in the bill for the removal of members from the commission. The amendment strikes language regarding complaints alleging conflict of interest on behalf of members of the Commission on Governmental Ethics and Election Practices. The amendment clarifies the portions of the bill that create an exception to the law governing public records to narrow its scope. Finally, the amendment corrects an error in existing law regarding seed money contributions under the Maine Clean Election Act.

**FISCAL NOTE REQUIRED**  
**(See attached)**