



LEAGUE OF WOMEN VOTERS OF MAINE

PAC BASICS

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History of Campaign Finance Reform in Maine

Money in political elections has a long history in the United States. “Ever since 1832 when Nicholas Biddle and the Bank of the United States spent \$800,000 in a vain attempt to defeat President Andrew Johnson, political commentators have expressed concern over the effect of special interest money on elections. Throughout our history, reform measures have followed the exposure of corrupt political practices.”¹

On the national level, Watergate serves as the most recent example where corrupt political practices resulted in reform measures. The massive amounts of money collected by the Committee to Reelect the President increased public distrust and cynicism which led to major changes in federal election laws. One result of the new federal laws was that “new channels for special contributions were opened up through groups called political action committees (PACs).”²

In Maine, as elsewhere, increasing amounts of money spent in political races gave rise to calls for reforms. In 1961, Maine required candidates for statewide office to file reports listing the name of anyone contributing \$50 or more and itemizing expenses of \$100 or more.³

By 1982, piecemeal changes which had been made to Maine’s election laws included limits on contributions to political campaigns. Individuals were allowed to contribute to a single candidate \$1,000 in any election with aggregate amounts to all candidates of \$25,000 in any calendar year. Committees, corporations, and associations could contribute \$5,000 to a candidate in any election with no overall limits to multiple candidates.⁴

¹ Report of a Study by the Joint Standing Committee on Election Laws to the 111th Maine Legislature, March 1984, p. 2.

² Joint Standing Committee on Election Laws, p. 3.

³ Public Law 1961, Chapter 360, Sections 167-177.

⁴ Maine Revised Statutes Annotated, Volume II, Titles 20 to 21, 1965 to 1982, Supplementary Pamphlet.

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Despite several attempts in the intervening years to combine limits on contributions with public financing of state elections, no real progress was made in changing Maine's elections laws until 1996.⁵ The first such attempt in 1989 applied only to the gubernatorial race where costs in 1986 were six times higher than they had been just eight years earlier. The 1989 proposal failed to pass the legislature and was also defeated at referendum.

It soon became apparent that costs were rising at a rapid pace in all statewide elections, and that future efforts at reform should include campaigns for the legislature as well as for the governor's office. A 1993 proposal failed. Three years later, in 1996, after the legislature again failed to pass legislation, a citizens' initiative known as the Maine Clean Election Act passed at referendum by a margin of 56.2% to 43.8%.⁶

The laws governing PACs were not changed in 1996. Although PACs had been required to list contributors and itemize expenditures since 1983, no limits had been placed on amounts which could be contributed to a PAC from any source.⁷

Maine Clean Election Act

The Maine Clean Election Act (MCEA) created a voluntary program of full public funding for candidates for the Legislature and the office of Governor. Since its passage, much has changed in elections for Maine's state offices. Most dramatically there are no longer large donations in any candidate race, whether publicly or privately funded. Publicly funded candidates can do only limited fundraising early in their campaigns (seed money allows no donation more than \$100). In privately funded campaigns, all donors, whether an individual, a committee, a corporation, or an association, are now subject to the same limits: \$250 to a legislative candidate and \$500 to a gubernatorial candidate.

More candidates are running for legislative races, different people are running because of the opportunity to use public funding, candidates enjoy greater parity of resources, and many more Maine people contribute to the financing of elections. Maine's state races are vigorous and competitive, and few go uncontested. In 2006, 81% of candidates ran on public funds.

What is a PAC?

"Political action committee" or "PAC" is the name commonly given to a private group organized to influence the outcome of an election, including to elect or defeat a candidate for office or to promote or oppose a ballot question. In Maine, there are many PACs of both types. Some remain active for a number of years while others are of short duration and go out of existence once their purpose no longer exists.

⁵ A good review of this period is found in *Legislative History of the Maine Clean Elections Act*, two volumes, compiled by the Maine State Law and Legislative Reference Library.

⁶ Maine Commission on Governmental Ethics and Election Practices, *2007 Report on the Maine Clean Election Act*. Of special interest is Section 1, Chapter 6, "Spending by PACs and Political Parties."

⁷ Public Law 1983, Chapter 365

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Two recent examples of ballot-issue PACs were the *Citizens Alliance of Maine* which supported the Taxpayer Bill of Rights and *Gambling with the Way Life Should Be* which opposed gambling and harness racing in Washington County. This type of PAC is not included in the present study.

We are concerned here only with those PACs that work in candidate campaigns, of which there were about a hundred that raised and spent money in the 2006 general election. Some of these PACs support candidates of a particular party or caucus, for example, the *House Democratic Campaign Committee* or the *House Republican Fund*. These are often called “caucus PACs” when they are organized by one of the Legislative caucuses (House Republicans, House Democrats, Senate Democrats or Senate Republicans) to staff the election activities of the caucus leadership in aspiring to win a House or Senate majority for their party.

Other candidate PACs are more issue oriented, such as *Businesses for Better Government* which supports pro-business candidates or *Maine Conservation Voters Action Fund* which supports pro-environment candidates without regard to party.

Still another type is the leadership PAC where a candidate for Senate or House leadership raises funds in support of his or her leadership campaign. *Edmonds for Leadership* and *Damon 06* are examples of leadership PACs. These leadership PACs are ostensibly organized to help candidates for House or Senate leadership engage in campaigning among their colleagues for a leadership post within their legislative body (Senate President, Speaker of the House, Majority or Minority Leader, etc.) But these “leadership PACs” are often used to assist the election of other candidates from the same party or to make contributions to the caucus PAC or party committee. The leadership candidate thus enhances his/her stature within the party and within the caucus and thus furthers his/her own leadership goals.

It is generally recognized that PACs provide an avenue for legitimate political activity and are an effective way for people with a common political interest to engage in collective action to further their goals.

PACs engage in a wide range of activities. They make contributions in cash or in-kind to privately funded candidates, although subject to the same limits as individuals (\$250). They provide issue and campaign training and advice to candidates and potential candidates. They also make substantial independent expenditures in candidate races, both those publicly and privately funded.

Legally, what constitutes a PAC for purposes of regulation is a matter of state and federal law. In Maine, the Commission on Governmental Ethics and Election Practices is the agency responsible for overseeing campaign finance law. In Maine, a PAC must register if it receives or spends \$1,500 in a calendar year to support or oppose a candidate for state office. In addition, it must disclose all expenditures and the name and address of any donor to the PAC who contributes over \$50.

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The disclosure that these requirements provide is valuable to the public and the press. Transfers from one PAC to another, however, make disclosure less meaningful. It is often difficult to know who actually funds which political activities.

Contributions to PACs

Maine is one of only fourteen states, and the only one in New England, which has no limit on the amount which can be contributed to a PAC by an individual, by another PAC or by a corporation.

Many states limit the source of contributions to PACs, often by prohibiting contributions from corporations. Twelve states that place no limits on individual contributions to PACs do prohibit or limit contributions to PACs from corporations. In New England, Vermont is the only state other than Maine which permits corporate contributions to PACs, but Vermont has an across-the-board \$2,000 contribution limit per two-year election cycle.

	Contributions to a PAC from: ⁸		
	Individual	PAC	Corporation
Connecticut	\$750 per year	\$2000 per year	Prohibited
Maine	Unlimited	Unlimited	Unlimited
Massachusetts	\$500 per year and \$12,500 aggregate over same period	\$500 per year and \$12,500 aggregate over same period	Prohibited
New Hampshire	\$5,000 per election	?	Prohibited
Rhode Island	\$1,000/calendar year to any one PAC and \$10,000/calendar year in total political contributions	\$1,000/calendar year to a single PAC and \$25,000/calendar year in total political contributions	Prohibited
Vermont	\$2,000 per two year general election cycle	\$2,000 per two year general election cycle	\$2,000 per two year general election cycle

Many contributions to Maine PACs in 2006 exceeded the limits placed by other New England states. (See Appendix)

⁸ Excerpted from a chart compiled by the staff of the State of Maine Commission on Governmental Ethics and Election Practice, January 2007. The full chart is available online at www.lwvme.org.

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PAC Spending

Caucus PACs and leadership PACs are the most prolific spenders. PACs organized by other special interest groups spend substantially less. PACs do spend on “independent expenditures.” These are mailers and advertising communications to voters intended to influence the outcome of the election that are not financed by a candidate’s campaign committee. Independent expenditures are most often made in support of a candidate, but they can also be made in opposition to a candidate. Independent expenditures can trigger matching funds for MCEA candidates. Some of the PAC spending by caucus and leadership PACs is on independent expenditures, but even more is spent in other categories that provide general support to the caucus in its bid to achieve a majority: staff, research, consultants, supplies, etc.⁹

Constitutional Issues

Reasonable limits on the size of contributions to PACs do not raise serious constitutional issues where there are contribution limits in place for candidate elections as there are in Maine. Courts recognize the importance of anti-evasion measures in order that contribution limits to candidates serve their purpose. The courts have also recognized the value of an aggregate limit – limiting how much one donor can contribute to all PACs combined. Aggregate limits may limit the influence of any one large donor. Contribution limits alone may not do this or prevent the proliferation of PACs.¹⁰

Concerns with Unlimited Contributions to PACs

Proponents of PAC limits express concerns that allowing unlimited contributions to PACs permits major donors to exert undue influence over Maine’s elected officials. Influence buying, or access buying, by major donors has been eliminated from campaign fundraising for both privately- and publicly-funded candidates under the MCEA. But when candidates are allowed to solicit and receive unlimited contributions to their leadership or caucus PAC, they are nevertheless especially grateful to their major PAC donors. When a single donor can make a quarter million dollar PAC donation to benefit a publicly funded candidate who didn’t receive any direct campaign contribution of more than \$100¹¹, the benefits of our candidate funding system are certainly compromised.

Other observers raise particular concern about leadership and caucus PACs that are organized or controlled by publicly funded candidates. Although these candidates have pledged not to solicit private contributions for their own campaigns, they (along with their privately-funded colleagues) are allowed to raise unlimited funds for PACs they use to seek party leadership roles or to advance their caucus majority.

⁹ Maine Commission on Governmental Ethics and Election Practices, p. 42-43.

¹⁰ *California Medical Assn. v. FEC*, 453 U.S. 182 (1981) (upholding \$5,000 contribution limit to multi-candidate PACs); *Buckley v. Valeo*, 424 U.S. 1, 35 (1976) (per curiam) (upholding FECA's \$5,000 PAC limit); *Mont. Right to Life Ass'n v. Eddleman*, 343 F.3d 1085, 1094-97 (9th Cir. 2003) (upholding Montana’s aggregate contribution limits for PACs).

¹¹ The maximum seed money donation allowed MCEA candidates.

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Candidates themselves often see large independent expenditures by PACs on their behalf as a mixed blessing. While ostensibly made on their behalf, these expenditures give candidates less control over the content and timing of activities in their own campaigns, and they may trigger matching funds for their opponent.

Summary

The Maine Clean Election Act and its limits on contributions to candidates have resulted in many changes in elections for state offices. There are no longer large donations in any candidate race, whether publicly or privately funded. State races are vigorous and competitive and a large majority of candidates choose to be publicly funded.

The laws governing PACs, however, were not changed in 1996. Maine is now one of only fourteen states, and the only one in New England, which has no limits on the amount or source of contributions to PACs. Many contributions to PACs in 2006 exceeded the limits placed by our neighboring states.

Questions have been raised about the effects of allowing unlimited contributions to PACs. Do large donors exert undue influence over Maine's elected officials? Do unlimited contributions to PACs undermine the goals of our publicly funded system? Is there a conflict when publicly funded candidates, who pledge not to accept contributions for their own campaign, are allowed to raise unlimited funds for PACs which they organize or control?

There are no easy answers to these serious questions. It is clear that Maine is out of step with many other states in having no limits at all on contributions to PACs. Any future reform will have to find a way of reducing the suspicion of undue influence by large donors, while at the same permitting legitimate political activity by people joined together with a common political interest. Maine has special considerations because of its public financing law. Any future reform also will have to find a way to give political leaders the tools they need to lead their caucus and their party while reducing the appearance of hypocrisy for those leaders using the MCEA, and it will have to do so without forcing leaders to choose between leadership and public funding. Without such reform, the true spirit and intent of public financing in Maine may be compromised.

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Appendix

Below are ten of the largest contributors to each of the six PACs that raised the most money between 2005 and 2006.¹² (* denotes an out-of-state address.)

*RGA (Republican Governors' Association) Maine PAC (total contributions \$714,500)

*RECAF, Inc	\$250,000
*United Sugar Corp	83,000
*Novartis Pharmaceutical	65,000
*Coca Cola	25,000
*MedImpact Healthcare System	25,000
*ATA& Affiliates	25,000
*Oracle USA	25,000
*International Association of Firefighters	22,000
*Pfizer, Inc.	20,000
*Corrections Corporation of America	17,500
*S. W. Jack Drilling	15,000
*Federated Department Stores	15,000
*Monsanto	15,000

House Republican Fund (total contributions \$650,714)

*Republican State Leadership Committee	\$340,000
Leadership for Maine's Future PAC	20,000
Maine Truck PAC	12,500
*GOPAC Maine	11,500
*Pharmaceutical Research & Manufacturers of America	11,000
*Robert Bahre	10,000
*Altria Corporate Services, Inc.	10,000
Maine Association of Community Banks PAC	10,000
*Plum Creek Marketing/Plum Creek	9,000
Maine Bank PAC	8,250

*Democratic Governors Association – Maine (total contributions \$550,000)

*Nat'l Education Assoc. Fund for Children	\$100,000
*American Federation of State, County, and Municipal Employees	80,000
*AFL-CIO COPE	75,000
*CRI (Carpet & Rug Institute?)	50,000
*SEIU	50,000
*International Union of Painters & Allied Trades	50,000
*Ovations	45,000
*Mylan Laboratories	25,000

¹² Compiled from financial disclosure information publicly available at the Maine Commission on Governmental Ethics and Election Practices, www.mainecampaignfinance.com/public/home.asp

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*UAW PAC	25,000
*Anheuser Busch	15,000

Senate Democratic Campaign Committee (total contributions \$504,356)

Edmonds for Leadership	\$ 40,000
Maine State Employees Association	35,000
*Democratic Legislative Campaign Committee	20,000
Damon '06	20,000
Mitchell 2006	18,000
High Hopes PAC	16,000
Maine State COPE	10,500
*Committee on Political Ed. AFL-CIO	10,000
Maine Association of Community Banks PAC	9,000
Maine Democratic Majority	8,500

Maine Senate Republican Victory Fund (total contributions \$489,415)

*Republican State Leadership Committee	\$160,000
ME Truck PAC	26,750
*Plum Creek Marketing/Plum Creek	12,250
Maine Bank PAC	10,000
Maine Association of Community Banks PAC	10,000
Friends of Maine Hospitals	9,500
*Altria Corp. Services	7,500
*Anheuser Busch	7,500
*Pfizer, Inc	7,500
*Pharmaceutical Research & Manufacturers of America	7,000

House Democratic Campaign Committee (total contributions \$473,898)

Pingree Leadership	\$ 43,200
Cummings 2006	38,150
Majority 101	28,755
Maine State Employees PAC	25,100
Maine Victory 2006	25,000
*AFL-CIO PAC	10,000
Maine State COPE/Maine AFL-CIO	8,000
Maine Health Care Association	7,000
Michaud for Congress	5,500
Citizens for Justice in Maine	5,200

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Key Sources

Legislative History of the Maine Clean Elections Act, two volumes, compiled by the Maine State Law and Legislative Reference Library.

2007 Report on the Maine Clean Election Act, Maine Commission on Governmental Ethics and Election Practices, www.maine.gov/ethics/publications/index.htm