

Maine Citizens for Clean Elections

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Backgrounder on PAC reform April 11, 2007

With passage of the Maine Clean Election Act and other changes to campaign finance law in 1996, much has changed in elections for Maine's state offices. Most dramatically, there are no longer any large donations in candidate races at all. Publicly funded candidates do only very limited private fundraising early in their campaigns (seed money allows no donation of more than \$100), and privately funded candidates amass the funds they need in increments of \$250 or less. More candidates are running for legislative races, different people are running because of the opportunity to use public funding, candidates enjoy much greater parity of resources, and many, many more Maine people contribute to the financing of elections here. Maine's state races are vigorous and competitive, and few go uncontested.

The laws governing political action committees (PACs) were not changed in 1996. Political spending through PACs has increased in Maine much as it has in the rest of the country. PACs engage in political activity ranging from making contributions (within established limits) to candidate races, providing issue and campaign training and advice to candidates and potential candidates, to making substantial independent expenditures in candidate races. PACs are required to disclose both contributions and expenditures.

MCCE believes that political action committees 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. Additionally, the disclosure they provide is valuable to the people and the press.

But PACs are the weakest link in Maine's campaign finance laws because they allow unlimited contributions from any source to be used for the purpose of influencing Maine's state elections. Legislators who participate in PACs raise money in much larger amounts than in their own campaigns, and the potential for both corruption and the appearance of corruption is real. Many other states – all but thirteen – limit the size of contributions to PACs, and many limit the source of those contributions as well. Additionally, the many transfers that are made between PACs can obscure the source of contributions.

Reasonable PAC contribution limits do not raise serious constitutional issues where there are contribution limits in place for candidate elections as we have in Maine. The courts recognize the importance of anti-evasion measures in order that contribution limits to candidates serve their purpose. On the private funding side, Maine has limits on what donors may give to individual candidates, and also limits what a donor may give in the aggregate to all candidates. On the public funding side, certified Clean Election candidates are barred from accepting any private contributions at all.

Maine Citizens for Clean Elections is a nonpartisan coalition of organizations that have worked together to pass Maine's Clean Election Act and that continue to work together to support and defend its use and the integrity of its implementation. Its members include AARP, Common Cause Maine, the League of Women Voters of Maine, Maine AFL-CIO, Maine People's Alliance and Peace Action Maine.

Thus, MCCE believes that reform of Maine's PAC laws must include both an individual contribution limit and an aggregate limit. We believe the limits must be high enough to allow vigorous political activity, and low enough to ensure that no individual is able to wield undue influence in races for state offices. We believe the aggregate limit is essential so that the largest contributors do not simply form more and more PACs.

MCCE's PAC reform position calls for:

A contribution limit of \$1,000 per two-year election cycle

Maine is the only state in New England with no limits on PAC contributions. A limit of \$1,000 would allow more than 92% of current PAC donors to give the same amount they currently give, but would dramatically decrease the size of the largest donations.

An aggregate limit of \$10,000 per two-year election cycle

To limit the influence of any one large donor and to prevent the proliferation of PACs that might result with contribution limits alone, an aggregate limit of how much one person can donate to all PACs is vitally important. This is a common practice, including in Arizona which has a Clean Election system similar to Maine's. Courts have recognized the value of an aggregate limit in combating the evasion of contribution limits.

Applying limits to PACs as well as individual contributors

PAC to PAC transfers would fall under the same rules as contributions from citizens. While donations from one PAC to another are legitimate, they make disclosure less meaningful. Too often these transfers become a "shell game" that makes it difficult for the public and the press to follow who actually funds political activities. Applying the limit to PACs also strengthens the anti-evasion aspect of the reforms.

Prohibiting corporate contributions to PACs

Many states and the federal government prohibit corporations from contributing to PACs, and these bans are not controversial in the courts. Corporations, with the regulatory assistance of government, amass significant wealth, and courts recognize the importance of keeping that wealth from exerting undue influence over lawmakers. Corporate officers and others could still exercise their rights to speech and assembly by creating their own PACs, but they would not be able to use corporate treasury funds. Individual donors would be subject to limits, and their donations would be disclosed.

Exemption from limits for ballot initiative PACs

MCCE does not propose any limits to PACs that only engage in issue campaigns and that do not make expenditures in candidate races. MCCE knows of no constitutional rationale for limiting donations to initiative campaigns. In order to make progress on PAC reform, the two types of PACs should be considered separately.