



June 15, 2023

The Honorable Janet T. Mills
Office of the Governor
1 State House Station
Augusta, ME 04333

RE: Opposition to L.D. 726

Dear Governor Mills,

Campaign Legal Center (CLC) respectfully urges you to veto L.D. 726, a bill that rolls back important safeguards against corruption in Maine elections. If the bill becomes law, L.D. 726 will undo Maine’s prohibition on direct corporate contributions to candidates for public office and allow unlimited contributions to leadership PACs. These provisions are crucial to protecting against quid pro corruption and the appearance of such corruption in Maine elections and ensuring that elected officials are accountable to Maine voters. Rather than going backwards and undoing these important safeguards, Maine should be strengthening them. We respectfully urge you to veto L.D. 726.

CLC is a nonpartisan, nonprofit organization dedicated to protecting and strengthening democracy across all levels of government. Since the organization’s founding in 2002, CLC has participated in every major campaign finance case before the U.S. Supreme Court and in numerous other federal and state court cases. Our work promotes every citizen’s right to participate in the democratic process.

Corporate contributions to candidates have long been recognized as a potential source of actual and apparent corruption in our political system. Indeed, the first federal campaign finance law in the United States—the Tillman Act of 1907—banned corporations from making contributions in connection with federal elections.¹ As federal campaign finance laws have been updated and overhauled in in the over 115 years since, “[o]ne feature ... has stayed intact, and much of the

¹ *FEC v. Beaumont*, 539 U.S. 146, 152 (2003).

periodic amendment was meant to strengthen the original, core prohibition on direct corporate contributions.”²

In repeatedly upholding the broader prohibition on corporate contributions in federal elections, the U.S. Supreme Court has recognized the importance of preventing actual and apparent corruption, and has explained that the corporate contribution ban prevents circumvention of individual contribution limits.³ Because corporations are entities on paper but not actual people, individuals who create and control a corporation can otherwise exceed limits on their own contributions by routing money through a corporation, or several corporations, undermining contribution limits altogether.⁴ Reversing Maine’s corporate contribution ban would take the state backwards, removing an important safeguard in Maine elections that is in place in 22 other states⁵ and in federal law.⁶

Additionally, Maine’s current limits on contributions to leadership PACs are both good policy and plainly constitutional because such limits also guard against quid pro quo corruption and the appearance of such corruption. Contribution limits to candidates and other political committees are a cornerstone of modern campaign finance laws at the federal, state, and local level and have been repeatedly upheld by federal courts as an important tool against corruption since *Buckley v. Valeo*.⁷ But L.D. 726 would open Maine leadership PACs—political committees established, maintained, or controlled by current legislators—to unlimited contributions. The glaring and stark risk of actual and apparent corruption in allowing limitless cash to flow from wealthy special interests to political committees run by elected officials is plain.

² *Id.* at 153.

³ *Id.* at 155; *see also* *McConnell v. FEC*, 540 U.S. 93, 204 (2003).

⁴ *Beaumont*, 539 U.S. at 155.

⁵ Alaska Stat. § 15.13.074(f); Ariz. Rev. Stat. § 16-916(A); Ark. Code Ann. § 7-6-203(a)(1)(B); Colo. Const. art. 28, § 3; Conn. Gen. Stat. § 9-613(a); Iowa Code Ann. § 68A.503(1); Ky. Rev. Stat. Ann. § 121.025; Mass. Gen. Laws ch. 55, § 8; Mich. Comp. Laws Ann. 169.254(1); Minn. Stat. Ann. § 211B.15 subd. 2; Mo. Const. art. 8, § 23(3); Mont. Code Ann. 13-35-227; N.C. Gen. Stat. Ann. § 163-278.15(a); N.D. Cent. Code § 16.1-08.1-03.5; Ohio Rev. Code § 3599.03(A); Okla. Stat. Ann. tit. 21, § 187.2(A); 25 Pa. Stat. § 3253(a); R.I. Gen. Laws § 17-25-10.1(h); Tex. Elec. Code Ann. § 253.094(a); W. Va. Code Ann. § 3-8-8(a); Wis. Stat. Ann. 11.1112; Wyo. Stat. Ann. § 22-25-102.

⁶ *See generally*, 52 U.S.C. § 30118; *see also* Federal Election Commission, FEC Campaign Guide for Corporations and Labor Organizations, <https://www.fec.gov/resources/cms-content/documents/colagui.pdf> (January 2018).

⁷ 424 U.S. 1 23-28 (1976). *See also* *Nixon v. Shrink Mo. Gov’t PAC*, 528 U.S. 377, 395-396 (2000); *Lair v. Motl*, 873 F.3d 1170, 1191 (C.A.9 2017); and *Zimmerman v. Austin*, 881 F.3d 378, 388 (C.A.5 2018).

Moreover, Maine’s restrictions on contributions to leadership PACs were enacted in the wake of reports showing abuses of leadership PAC funds.⁸ At the federal level and in other states with similar leadership PACs, these types of committees have also been ripe for abuse, often being used as slush funds for the controlling officeholder or candidate rather than for the stated purpose of supporting fellow candidates.⁹ Removing contribution limits to leadership PACs in light of these well-documented concerns would be another step backwards.

The people of Maine deserve more accountability in state government, not less. In enacting a corporate contribution ban and establishing limits on contributions to leadership PACs, Maine took a strong step towards ensuring that its elected officials are not for sale to the highest bidder. Because L.D. 726 will undermine efforts to ensure Maine officials are accountable to regular Mainers instead of the wealthy special interests that line their campaign coffers, we respectfully urge you to veto L.D. 726.

Respectfully submitted,

/s/

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⁸ Steve Mistler, Ethics Commission Dismisses PAC Complaint Against Maine State Senate Candidate, MAINE PUBLIC RADIO (Oct. 4, 2020) <https://www.mainepublic.org/politics/2020-09-30/ethics-commission-dismisses-pac-complaint-against-maine-state-senate-candidate>; see also MAINE CITIZENS FOR CLEAN ELECTIONS, POLICY BRIEF: MAINE DOES NOT NEED LEADERSHIP PACS, https://www.maineclipselections.org/sites/default/files/fact_sheets/Leadership%20PAC%20Policy%20Brief%20draft%20031417.pdf (Mar. 17, 2017).

⁹ See generally, CAMPAIGN LEGAL CENTER AND ISSUE ONE, ALL EXPENSES PAID: HOW LEADERSHIP PACS BECAME POLITICIANS’ PREFERRED TICKET TO LUXURY LIVING, <https://www.issueone.org/wpcontent/uploads/2018/07/All-Expenses-Paid-How-Leadership-PACs-Became-Politicians-Preferred-Ticket-to-Luxury-Living-Report.pdf> (July 19, 2018). See also Melissa Nann Burke, Baseball tickets, ski trips: How Michigan lawmakers use little-known PACs, DETROIT NEWS <https://www.detroitnews.com/story/news/politics/2019/06/03/michigan-lawmakers-using-special-interest-funded-pacs/1291330001/> (June 3, 2019).