

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 934 - L.D. 1274

An Act Regarding 2021 Municipal Elections and Town Meetings

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

Whereas, the spread of the novel coronavirus referred to as COVID-19 has created a public health emergency; and

Whereas, in response to COVID-19, the World Health Organization has declared a pandemic, the President of the United States has declared a national emergency and the Governor of Maine has declared a civil state of emergency; and

Whereas, state and federal authorities, including the federal Centers for Disease Control and Prevention, the Department of Health and Human Services, Maine Center for Disease Control and Prevention and the Governor have recommended or placed limits on public gatherings; and

Whereas, the most recommended ways of avoiding infection and furthering the spread of the virus that causes COVID-19 are for authorities to reduce the number of public gatherings and for people to avoid large crowds; and

Whereas, municipal leaders seek to ensure public safety by acting in concert with public health guidelines to discourage large gatherings and also recognize the likelihood of low voter turnout at meetings or elections held, depriving voters of full participation in municipal decisions; and

Whereas, there is no procedure in Maine law to postpone a municipal secret ballot election or nomination process already in progress, and delay of municipal budget meetings will deprive municipal authorities of legal authority to spend and continue operations; and

Whereas, it is imperative that action be taken at the earliest possible moment to allow for continuity of services by municipalities despite the need to postpone meetings; 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,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. Failure to pass municipal budget; deemed approved; tax commitment. Notwithstanding any law or municipal charter provision to the contrary, if an annual municipal budget meeting is delayed beyond the date the annual budget is customarily submitted to the legislative body of that municipality for approval due to public health concerns arising from coronavirus disease 2019, referred to in this Act as COVID-19, the prior year's approved or deemed approved municipal budget is deemed the budget for the ensuing year until a final budget is approved. If a final budget is not approved in a timely manner and the municipal officers determine that property taxes must be committed in a timely manner to the tax collector pursuant to the Maine Revised Statutes, Title 36, section 709, the municipal assessor may commit property taxes on the basis of the municipal budget deemed approved under this section.

Sec. 2. Individual authorization of disbursements by municipal treasurer. Notwithstanding the Maine Revised Statutes, Title 30-A, section 5603, subsection 2, paragraph A or any other law or municipal charter provision or ordinance to the contrary, for the duration of a state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19 and for 30 days following the termination of that state of emergency, a municipal treasurer may disburse money on the authority of a warrant drawn for that purpose seen and signed individually by a majority of the municipal officers outside of a public meeting.

Sec. 3. Postponement of secret ballot election. Notwithstanding any law or municipal charter provision or ordinance to the contrary, beginning January 15, 2021, the municipal officers may postpone the date of a scheduled municipal secret ballot election when nomination papers have already been issued or filed by posting notice in a conspicuous public location at least 2 days prior to the date of the election. The notice must be signed by a majority of the municipal officers and must either:

1. State a specific date and time during which the polls will be open to complete the election; or
2. State that the date of a rescheduled election will be determined by the municipal officers.

The rescheduled election must be noticed by a warrant calling the election that is approved and posted pursuant to the Maine Revised Statutes, Title 30-A, section 2523 at least 7 days prior to the date of the rescheduled election.

If ballots have been printed for the postponed election, the municipality may use those ballots despite inclusion of the original election date. If absentee ballots have been issued and returned, the municipality shall use the ballots printed for the originally scheduled election. The municipal clerk shall safeguard and secure any absentee ballots already returned until the date of the rescheduled election and shall process them as required by the Maine Revised Statutes, Title 21-A. During the interim period between the originally scheduled election and rescheduled election, the clerk may continue to issue and accept absentee ballots and applications and allow voting in the presence of the clerk pursuant to Title 21-A.

A municipal secret ballot referendum election is subject to the same rescheduling, ballot and absentee ballot provisions as set forth in this section.

Sec. 4. Referendum vote hearing requirement. The hearing required by the Maine Revised Statutes, Title 30-A, section 2528, subsection 5 or municipal charter before a referendum vote may be conducted via remote means following the requirements established for remote board meetings in Public Law 2019, chapter 617, Part G.

Sec. 5. Secret ballot election. Notwithstanding any law or municipal charter provision to the contrary, the Maine Revised Statutes, Title 30-A, section 2528, subsection 1 is suspended to allow the municipal officers of a municipality that has not voted to accept secret ballot voting to nevertheless do so during the state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19. Elected officials in those municipalities may remain in office until an election pursuant to Title 30-A, section 2525.

Sec. 6. Referendum wording deadline. The requirement in the Maine Revised Statutes, Title 30-A, section 2528, subsections 4 and 5 that municipal officers file with the clerk an order establishing the wording of a referendum question by the 60th day before a referendum election is suspended and modified to provide for such filing by the 30th day before the referendum.

Sec. 7. Written ballot exception. Solely to the extent that the Maine Revised Statutes, Title 30-A, section 5721-A, subsection 7, paragraph A requires a written ballot to exceed or increase the property tax levy limit at an open town meeting held in compliance with relevant gathering limits, it is suspended in favor of either a show of hands or a voice vote during the state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19.

Sec. 8. Retroactivity; repeal. This Act applies retroactively to January 15, 2021 and is repealed the earlier of June 30, 2022 and the end of the state of emergency declared by the Governor in accordance with the Maine Revised Statutes, Title 37-B, section 742 due to the outbreak of COVID-19.

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