

CONSTITUTION OF THE STATE OF MAINE

Article V. -- Part First.
Executive Power.

Section 8. To appoint officers. The Governor shall nominate, and, subject to confirmation as provided herein, appoint all judicial officers, except judges of probate and justices of the peace if their manner of selection is otherwise provided for by this Constitution or by law, and all other civil and military officers whose appointment is not by this Constitution, or shall not by law be otherwise provided for.

Procedure for confirmation. The procedure for confirmation shall be as follows: an appropriate legislative committee comprised of members of both houses in reasonable proportion to their membership as provided by law shall recommend confirmation or denial by majority vote of committee members present and voting. The committee recommendation shall be reviewed by the Senate and upon review shall become final action of confirmation or denial unless the Senate by vote of 2/3 of those members present and voting overrides the committee recommendation. The Senate vote shall be by the yeas and nays.

Affirmative vote of 2/3 of members required. All statutes enacted to carry out the purposes of the second paragraph of this section shall require the affirmative vote of 2/3 of the members of each House present and voting.

Governor or President of Senate may call Senate into session. Either the Governor or the President of the Senate shall have the power to call the Senate into session for the purpose of voting upon confirmation of appointments.

Nomination by Governor made 7 days prior to appointment of nominee. Every nomination by the Governor shall be made 7 days at least prior to appointment of the nominee.

MAINE REVISED STATUTES
TITLE 3
LEGISLATURE
CHAPTER 6
CONFIRMATION OF APPOINTMENTS

3 § 151. Confirmation procedure (REPEALED)

3 § 151-A. Correction of statutory references to committees (REPEALED)

3 § 152. Designation of committee for review of nominations for judicial offices and of Attorney General (REPEALED)

3 § 153. Scope

The nomination and confirmation of all judicial officers whose confirmation by the Legislature is required by the Constitution of Maine and the nomination and confirmation of all other officers whose confirmation by the Legislature is required by law are governed by the provisions of this chapter.

3 § 154. Nominations

The Governor shall, within 20 days after the convening of each legislative session, provide to each joint standing committee of the Legislature a list of all positions for which legislative confirmation is required that are within each committee's jurisdiction and that are vacant or have terms expiring before the convening of the next regular session of the Legislature. The chairs of each joint standing committee and the Governor, or their designees, shall negotiate in good faith to establish a schedule for nominations and consideration of nominations during the session.

When nominating a person to a position for which confirmation is required, the Governor shall post the nomination and simultaneously deliver to both the President of the Senate and the Speaker of the House of Representatives notification of the name of the nominee, the office to which that person is nominated and an information packet, which must include the background information and questionnaire provided to the Office of the Governor by the nominee and may include other information the Governor determines appropriate. The date of the posting and notice is referred to in this chapter as the "posting date."

When the nomination is received, the President of the Senate and the Speaker of the House of Representatives shall provide notice of the nomination and copies of accompanying materials to the chairs of the appropriate joint standing committee, to the Legislative Information Office and to the partisan staff assistants designated by the majority and minority parties of the Legislature. The Legislative Information Office shall establish an official file for each nominee, which is subject to the provisions of section 159. The file must include the information submitted by the Governor pursuant to this section.

The Governor may withdraw a nomination at any time before the Senate votes pursuant to section 158 by sending a written notice of withdrawal to the President of the Senate.

Notwithstanding the other provisions of this chapter, if the Governor posts a nomination within 30 days preceding the statutory date of adjournment, a legislative

committee to whom a nominee is to be referred for confirmation review may, by 2/3 vote, request the President of the Senate and the Speaker of the House of Representatives to delay this review in order to complete the committee's legislative work. If the President of the Senate and the Speaker of the House of Representatives approve the request, the time periods for legislative action under this chapter begin on the date the Legislature adjourns.

3 § 155. Preliminary procedures

The chairs of the appropriate joint standing committee shall:

1. Schedule prehearing conference. Schedule a prehearing conference in cooperation with the Legislative Information Office. The prehearing conference must be held within 21 days of the posting date;

2. Request reports. Request background reports from the partisan staff assistants; and

3. Inform nominee. Advise the nominee of the date of the prehearing conference and the deadline for completion of a questionnaire from the committee and submission of supplemental materials by the nominee. The deadline is 15 days from the posting date unless the 15th day is not a business day, in which case the deadline is the next business day.

3 § 156. Prehearing conference

The appropriate joint standing committee shall hold a prehearing conference for each nominee, unless the committee decides otherwise. If the committee determines that it is necessary to avoid damage to the reputation of the nominee or that there are issues that should be discussed privately, the prehearing conference may go into executive session using the procedures specified in Title 1, section 405, and only the committee members and the partisan staff assistants may attend. All materials prepared for or reviewed in the conference are not subject to the provisions of Title 1, chapter 13 except as provided in section 159. The prehearing conference is governed by the Joint Rules of the Legislature and by the committee's rules of procedure, except that a quorum of 7 committee members must be present for votes in the prehearing conference. Votes may not be taken in executive session.

The committee shall set a public hearing date.

The committee may ask the partisan staff assistants to prepare additional background information for a public hearing. The chairs shall notify the nominee of all actions taken and decisions made at the prehearing conference.

3 § 157. Public hearings

The public hearing must be held within 30 days of the posting date except for nominations for judicial officers, for which the public hearing must be held within 35 days of the posting date. The Legislative Information Office shall advertise all public hearings at least 7 days before the public hearing in both the state paper and in a newspaper of general circulation in the area in which the nominee resides. The advertisement must contain the name of the nominee, the position for which the nomination has been made, a summary of the duties of the position, the time, place and date of the public hearing and a statement that written comments relevant to the qualifications of the nominee, together with supporting materials, may be filed with the Legislative Information Office by 9 a.m. on the hearing date.

Additional background information developed by the partisan assistants must be filed with the Legislative Information Office by 9 a.m. on the hearing date.

For the purposes of reviewing nominations pursuant to this chapter, the appropriate joint standing committee may administer oaths and take testimony under oath. Notwithstanding the provisions of section 165, subsection 7, the Legislature or, when the Legislature is not in session, the Legislative Council may grant to the joint standing committee reviewing a nomination any of the powers under section 165, subsection 7.

The committee may take testimony under oath and shall consider the materials on file with the Legislative Information Office. The committee may meet in executive session if new information is raised at the public hearing that, if known earlier, would have been subject to discussion at the prehearing conference.

The committee shall vote on the nomination within 35 days of the posting date, except that for nominations for judicial officers the committee shall vote within 40 days. A vote may not be taken sooner than 15 minutes after the close of the public hearing unless all members of the committee who are present agree. Upon a motion to confirm, properly made and seconded, the committee shall recommend confirmation or denial by a majority vote of the members present and voting at the time the vote is taken. The committee vote is by yeas and nays. Notwithstanding any other rule or provision of law, a member must be present to vote and the vote may not be modified except upon a proper motion for reconsideration.

A tie vote of the committee is deemed a recommendation for denial. The committee chairs shall promptly notify the President of the Senate of the committee's recommendation and the results of the vote, listing the yeas and nays.

3 § 158. Confirmation vote

The Senate shall vote by yeas and nays to accept or reject the recommendation of the appropriate joint standing committee. The Senate shall vote on the committee's recommendation within 45 days of the posting date, except that for judicial officers the vote must be held within 50 days of the posting date. The committee's recommendation becomes final unless it is overridden by a vote of 2/3 of the Senators present and voting.

3 § 159. Confidentiality of records

Records filed with the Legislative Information Office pursuant to this chapter are public records upon filing and are subject to public review pursuant to Title 1, chapter 13.

All documents prepared for or reviewed in the prehearing conference become public records pursuant to Title 1, chapter 13 at the conclusion of the conference unless 2/3 of the committee votes to seal one or more documents. If a document is sealed, it is exempt from public disclosure.

At the close of each legislative session, the Legislative Information Office shall review each official file, removing each sealed document and replacing it with an information sheet generally identifying the sealed document and noting its removal. The Legislative Information Office shall forward the file to the State Archives. The sealed documents must be destroyed.

JOINT RULES OF THE 129th LEGISLATURE

Part 5

Legislative Confirmations

Rule 501. Partisan Staff Assistants for Nominations.

The members of the Legislative Council representing each party shall, within 7 legislative days after the convening of the first regular session, appoint a partisan staff assistant for nominations. Each of these assistants serves at the pleasure of the appointing authority during the biennium for which the assistant is chosen. A vacancy in either of these positions must be filled for the remainder of the biennium in the same manner as the original appointment. Partisan staff assistants for nominations shall provide all necessary assistance to each joint standing committee required by law to recommend action on a gubernatorial nominee.

Rule 502. Notice of Gubernatorial Appointments.

The procedures for legislative confirmation are established in the Maine Revised Statutes, Title 3, chapter 6. Upon receipt by the President of the Senate, the Speaker of the House and the Legislative Information Office of notification from the Governor of the name of a nominee and of the office to which that person is nominated, the Legislative Information

Office shall, without delay, forward that notice and copies of accompanying materials to the chairs of the joint standing committee that is charged by law with reviewing nominations to that office and to the 2 partisan staff assistants for nominations. The Legislative Information Office shall establish an official file for each nominee.

Rule 503. Committee Preconference Hearing.

The joint standing committee must hold a prehearing conference within 21 days of the notification from the Governor unless the committee decides otherwise. The prehearing conference must be consistent with the Maine Revised Statutes, Title 3, section 156.

Rule 504. Committee Public Hearing.

The joint standing committee shall hold a public hearing on the nomination in Augusta at a time convenient to the public within 30 days, or 35 days for judicial officers, from the date of the Governor's notice of the nomination to the President of the Senate and the Speaker of the House. At least 7 days before the hearing, the Legislative Information Office shall provide notice of the hearing, the name of the nominee, the office to which that person has been nominated and a general description of the duties of that office. The notice must also contain a statement that written comments relevant to the qualifications of the nominee together with supporting materials may be filed with the Legislative Information Office by 9 a.m. on the hearing date. At the hearing, the committee shall take written or oral testimony limited to relevant comments and questions regarding the qualifications of the nominee. Notwithstanding the Maine Revised Statutes, Title 3, section 157, for the purposes of reviewing nominations pursuant to this rule, the joint standing committee has the power to administer oaths and to take testimony under oath. All testimony taken at the hearing must be recorded and testimony and other materials received by the committee must be preserved according to the Maine Revised Statutes, Title 3, section 159. In the event that partisan assistants for nominations are appointed, they shall provide the committee with a written report of their investigations before the committee votes to recommend or deny confirmation.

Rule 505. Committee Vote.

Within 35 days, or 40 days for judicial officers, from the date of the Governor's notice of the nomination to the President of the Senate and the Speaker of the House, the committee shall recommend confirmation or denial by majority vote of the committee members present and voting. The vote of the committee may be taken only upon an affirmative motion to recommend confirmation of the nominee, and a tie vote of the committee is considered a recommendation of denial. A vote may not be taken sooner than 15 minutes after the close of the public hearing unless by agreement of all committee members present. The committee vote must be by the yeas and nays of those present and voting. The chairs of the committee shall send written notices of the committee's recommendation to the President of the Senate.

Rule 506. Senate Vote.

Within 45 days, or 50 days for judicial officers, from the date of the Governor's notification of the nomination to the President of the Senate and the Speaker of the

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House, the Senate shall review the recommendation of the committee on the nomination and, after review, shall vote by the yeas and nays on that recommendation.

After vote by the Senate, the committee's recommendation becomes final action of confirmation or denial unless the Senate by a vote of 2/3 of those members present and voting overrides the committee's recommendation. If the committee recommends to deny confirmation and the Senate votes by a vote of 2/3 or greater of those members present and voting to override the committee's recommendation, the nomination is considered confirmed. Following Senate confirmation or denial, notice of the action taken must be given to the Speaker of the House.

Rule 507. Withdrawal of Nomination.

If the Governor withdraws a nomination at any time prior to the Senate vote by sending a written notice of withdrawal to the President of the Senate, the Legislature may not take any further action on that nomination.

Rule 508. Nomination Made Within 30 Days of Adjournment.

If the Governor posts a nomination within 30 days preceding the statutory date of adjournment, a legislative committee to which a nominee is referred for confirmation review may by 2/3 vote request the President of the Senate and the Speaker of the House to delay this review in order to complete the committee's legislative work. If the President of the Senate and the Speaker of the House approve the request, the time periods for legislative action begin on the date the Legislature adjourns.

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