

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Election Laws

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

Sec. 1. 21-A MRSA §101, sub-§10, as enacted by PL 2007, c. 455, §3, is amended to read:

10. Ineligible to serve. When a member of the registrar's immediate family becomes a candidate for federal, state, local or county office in the electoral division in which the registrar is appointed, the registrar may not serve as registrar during the period beginning when the candidate files a petition to be a candidate or is nominated to be a replacement candidate until the time of election. The registrar shall instead appoint a deputy to whom the municipality shall pay all associated costs who must be compensated by the municipality for the duration of the deputy's temporary employment in that capacity.

Sec. 2. 21-A MRSA §122, sub-§7, as amended by PL 2005, c. 453, §19, is further amended to read:

7. Record of names. The names of voters who register by appearing in person before the registrar during the business days before election day under subsection 6 must be recorded as provided in either paragraph A or B:

A. The registrar shall, after finding an applicant qualified, issue a certificate requiring the voter's name and other required information to be written on the ~~original or any supplemental~~ incoming voting list at the voting place on election day. The certificate must be attached to, or included with, the incoming voting list and sealed as provided in section 698. Only one certificate may be recorded for any voter at an election; or

B. The registrar shall, after finding the applicant qualified, enter the voter's name and other information from the voter registration application into the central voter registration system and add it to the incoming voting list ~~or a supplemental incoming voting list~~. Before the polls are opened, the registrar shall deliver the incoming voting list and ~~any supplemental incoming voting list or lists~~ to the clerk. The inclusion of a person's name on these lists the incoming voting list will entitle the applicant to vote on election day. ~~All references in this Title to the use of the incoming voting list before, during and after election day are considered to include the supplemental incoming voting list or lists as provided in this paragraph.~~

Sec. 3. 21-A MRSA §181, sub-§1, ¶B, as amended by PL 2003, c. 407, §14 and amended by c. 689, Pt. B, §6, is repealed and the following enacted in its place:

B. Outside agencies, or their successors, which include the following:

(1) All state agencies that provide public assistance, including the Department of Health and Human Services and the offices within the department, that provide assistance under the Temporary Assistance for Needy Families program under Title 22, chapter 1053-B, the

Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966, the federal Medicaid program and the statewide food supplemental program under Title 22, section 3104;

(2) The uniformed service recruitment offices;

(3) The public high schools;

(4) The offices of municipal clerks and registrars;

(5) The Department of Labor, Bureau of Rehabilitation Services; and

(6) All state agencies that provide state-funded programs primarily engaged in providing services to persons with disabilities.

Sec. 4. 21-A MRSA §331, sub-§1, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

1. Nomination by primary election. A party's nomination of a candidate must be made by primary election, as provided in this Article, according to this subsection.

A. A party's nomination for a candidate for the office of United States Senator, Representative to Congress or Governor must be by primary election.

B. A party's nomination for a candidate for the office of State Senator, State Representative or any county office must be by primary election:

(1) When there is more than one candidate who has qualified by filing a petition and consent under sections 335 and 336;

(2) When there is at least one candidate who has qualified by filing a petition and consent under sections 335 and 336 and there is at least one candidate who has qualified as a write-in candidate in accordance with section 723, subsection 1; or

(3) When there is no candidate who has qualified by filing a petition and consent under sections 335 and 336 but there is at least one candidate who has qualified as a write-in candidate in accordance with section 723, subsection 1.

In all other instances, a candidate under this paragraph must be nominated to the general election ballot based on acceptance of the candidate's primary petitions, pursuant to section 337, subsection 1, without a primary election.

Sec. 5. 21-A MRSA §363, sub-§3, as amended by PL 2011, c. 239, §3, is further amended to read:

3. Acceptance filed. A person chosen under this section must file a written acceptance containing a statement that the person meets the qualifications of the office sought and declaring the person's residence and party enrollment with the Secretary of State. The Secretary of State shall provide a form ~~on which the statement is made by the candidate~~for the candidate's acceptance that must include a list of the statutory and constitutional requirements of the office sought by the candidate. The form also must include a place for the registrar of the candidate's municipality of residence to certify the candidate's registration and enrollment status.

Sec. 6. 21-A MRSA §371, as amended by PL 2011, c. 342, §11, is further amended to read:

§ 371. Candidates for nomination; vacancy

If a candidate for nomination dies, withdraws for good cause at least 6075 days before the primary or becomes disqualified after having filed the candidate's primary petition, so that a party has fewer candidates than there are offices to be filled, the vacancy may be filled by a political committee pursuant to section 363. Good cause for withdrawal includes a change in the health, employment or economic status of the candidate or a member of the candidate's immediate family, and the reason for withdrawal must be provided in the written notice of the withdrawal submitted to the Secretary of State pursuant to section 367. The Secretary of State shall declare the vacancy pursuant to section 362-A. Less than 6075 days before the primary election, a candidate may withdraw from the primary by providing a written notice to the Secretary of State that the candidate is withdrawing and will not serve if elected. The candidate's name will not be removed from the ballot, but upon receipt of the notice of late withdrawal, the Secretary of State shall instruct the local election officials in the candidate's electoral district to distribute notices with absentee ballots requested after that date and to post a notice at each voting place in the district informing voters that the candidate has withdrawn and that a vote for that candidate will not be counted. Notice of the late withdrawal must also be posted on the Secretary of State's publicly accessible website.

Sec. 7. 21-A MRSA §374-A, sub-§1, ¶B, as enacted by PL 1989, c. 341, §2, is amended to read:

B. Withdraws because of a catastrophic illness, condition or injury that has permanently and continuously incapacitated the candidate and would prevent performance of the duties of the office sought, provided the candidate or a member of the candidate's immediate family files with the Secretary of State a certificate accompanying the withdrawal request, which describes the illness, condition or injury and is signed by at least 2 licensed physicians; or

Sec. 8. 21-A MRSA §374-A, sub-§3, as amended by PL 2011, c. 342, §13, is further amended to read:

3. Deadline for withdrawal. A candidate for an office on the general election ballot must withdraw at least 6075 days before the general election and state good cause in order for the candidate's name to be removed from the ballot. Good cause for withdrawal includes a change in the health, employment or economic status of the candidate or a member of the candidate's immediate family, and the reason for withdrawal must be provided in the written notice of the withdrawal submitted to the Secretary of State pursuant to section 367. Less than 6075 days before the general election, a candidate may withdraw from the election by providing a written notice to the Secretary of State that the candidate is withdrawing and will not serve if elected. The candidate's name will not be removed from the ballot, but upon receipt of the notice of late withdrawal, the Secretary of State shall instruct the local election officials in the candidate's electoral district to distribute notices with absentee ballots requested after that date and to post a notice at each voting place in the district informing voters that the candidate has withdrawn and that a vote for that candidate will not be counted. Notice of the late withdrawal must also be posted on the Secretary of State's publicly accessible website.

Sec. 9. 21-A MRSA §375, sub-§2, as amended by PL 1999, c. 426, §15, is further amended to read:

2. Candidate for Vice President; death; withdrawal; disqualification. If a candidate for Vice President who has been nominated by petition under section 354, subsection 1, paragraph B, dies, withdraws at least 6075 days before the election or becomes disqualified, the vacancy may be filled by a new vice-presidential candidate, if the following conditions are met:

- A. Written resignation is filed with the Secretary of State by the previous vice-presidential candidate, if the mental and physical condition of the candidate allows;
- B. Written consent is filed with the Secretary of State by the new vice-presidential candidate;
- C. Written acceptance of the new vice-presidential candidate is filed with the Secretary of State by the presidential candidate; and
- D. Written acceptance of the new vice-presidential candidate is filed with the Secretary of State by each of the presidential electors.

Sec. 10. 21-A MRSA §376, sub-§1, as amended by PL 1997, c. 436, §55, is further amended to read:

1. Federal or gubernatorial office. If a candidate or nominee for a federal or gubernatorial office withdraws less than 6075 days before any election, the Secretary of State is not required to produce new ballots.

Sec. 11. 21-A MRSA §506 is enacted to read:

§ 506. Municipal clerk ineligible to serve

When a member of the municipal clerk's immediate family becomes a candidate for federal, state, local or county office in the electoral division in which the municipal clerk serves, the municipal clerk may not serve as the supervisor of elections during the period beginning when the candidate files a petition

to be a candidate or is nominated to be a replacement candidate until the time of election. The municipal clerk shall instead appoint a deputy who must be compensated by the municipality for the duration of the deputy's temporary employment in that capacity.

Sec. 12. 21-A MRSA §626, sub-§1, as amended by PL 2011, c. 342, §18, is further amended to read:

1. Opening time flexible. The polls must be opened no earlier than 6 a.m. and no later than 8 a.m. on election day, except that in municipalities with a population of less than 500, the polls must be opened no later than 10:00 a.m. The municipal officers of each municipality shall determine the time of opening the polls within these limits. ~~The municipal clerk shall notify the Secretary of State of the poll opening times at least 30 days before each election conducted under this Title.~~

Sec. 13. 21-A MRSA §626-A is enacted to read:

§ 626-A. Voting place report

The municipal clerk shall file a voting place report at least 60 days before each election conducted under this Title, on a form designed by the Secretary of State, with information about each voting place, including, but not limited to, the location of each voting place, the poll opening time and the number of voting booths that will be used.

Sec. 14. 21-A MRSA §671, sub-§2, as amended by PL 2003, c. 584, §9, is repealed and the following enacted in its place:

2. Name checked and ballot issued. The election clerk in charge of the incoming voting list shall place a check mark or a horizontal line, in red ink, on the list beside the voter's name, and if there is more than one party or district ballot style used at that voting place, the election clerk must state in a loud, clear voice the party or district ballot style that the voter must be given. The election clerk in charge of the ballots shall give the voter one ballot of each kind to which the voter is entitled and if there is more than one party or district ballot style used at that voting place, the election clerk must repeat the party or district ballot style being given to the voter. A voter who will vote using the accessible voting system may not be given an official ballot, but may be given a sample ballot to use as a voting aid. The voter must be given a ballot when the voter's name is checked on the incoming voting list and may not be referred to another location to obtain the ballot.

Sec. 15. 21-A MRSA §671, sub-§3, as amended by PL 2009, c. 253, §26, is repealed.

Sec. 16. 21-A MRSA §671, sub-§4, as amended by PL 1997, c. 436, §95, is further amended to read:

4. Retires to voting booth. After receiving the ballot or ballots, the voter shall retire to a voting booth and mark the ballot or ballots without delay and leave the voting booth. No ballot, marked or unmarked, may be left in the voting booth by the voter. If the voter is using the accessible voting system, an election official shall escort the voter to the voting station, instruct the voter on the proper use of the accessible voting system, provide the voter with access to all ballots to which the voter is entitled and permit the voter to cast the voter's ballot using the accessible voting system.

Sec. 17. 21-A MRSA §671, sub-§5, as amended by PL 2001, c. 310, §35, is further amended to read:

5. Ballot deposited. When the voter leaves the voting booth, the voter shall proceed to the ballot box. The clerk shall require the voter to deposit in the ballot box all ballots, marked or unmarked, issued to the voter under subsection 3~~2~~, and the voter shall then leave the area enclosed by the guardrail. The voter may not leave the guardrail enclosure until the voter has deposited all ballots that were issued to the voter. The voter may permit a family member or an assistant under section 672 to deposit the ballots for the voter.

Sec. 18. 21-A MRSA §682, sub-§3, as amended by PL 2009, c. 253, §27, is further amended to read:

3. Advertising prohibited. A person may not display advertising material; operate an advertising medium, including a sound amplification device; or display or distribute campaign literature, posters, palm cards, buttons, badges or stickers containing a candidate's name or otherwise intending to influence the opinion of any voter regarding a candidate or question that is on the ballot for the election that day on any public property located within 250 feet of the entrance to either the voting place or the building in which the registrar's office is located. The term "sound amplification device" includes, but is not limited to, sound trucks, loudspeakers and blowhorns.

A. This subsection does not apply to advertising material on automobiles traveling to and from the voting place for the purposes of voting. It does not prohibit a person who is at the polls solely for the purpose of voting from wearing a campaign button when the longest dimension of the button does not exceed 3 inches.

B. Nonpolitical charitable activities and other nonpolitical advertising may be allowed at the discretion of the clerk if arrangements are made prior to election day. If arrangements are not made in advance of the election day, the warden may, at the warden's discretion, either allow or prohibit nonpolitical charitable activities and other nonpolitical advertising.

Sec. 19. 21-A MRSA §682, sub-§4, as enacted by PL 2003, c. 447, §22, is amended to read:

4. Devices for communication. Party workers or others may not use cellular phones, voice pagers or similar devices to make audible voice communication or visual communication, including a text message or e-mail communication, within the voting place that is in violation of subsection 2.

Sec. 20. 21-A MRSA §712, as amended by PL 1993, c. 473, §27 and affected by §46, is further amended to read:

§ 712. Return not delivered

If an election return is not delivered to the Secretary of State ~~within 3 business days~~ by 5 p.m. on the 3rd business day after an election, the Secretary of State ~~shall send a messenger to the municipality concerned, and the clerk shall give that messenger a certified copy of the return~~ municipal clerk commits a civil violation for which a fine of not more than \$50 for each day the return is late may be adjudged.

Sec. 21. 21-A MRSA §722-A, as amended by PL 2009, c. 253, §37, is further amended to read:

§ 722-A.Determination of declared write-in candidate

To be considered a declared write-in candidate, a person must file a declaration of write-in candidacy with the Secretary of State, on a form approved by the Secretary of State, on or before 5 p.m. on the ~~45th~~70th day prior to the election. The candidate must meet all the other qualifications for that office.

Sec. 22. 21-A MRSA §737-A, first ¶, as amended by PL 2007, c. 515, §8, is further amended to read:

Once a recount is requested, the Secretary of State shall notify the State Police, who shall take physical control of all ballots and related materials involved in the recount as soon as possible, except that for a statewide office or statewide referendum or an office or referendum that encompasses more than one county, the Secretary of State, in agreement with the parties involved in the recount, may direct the State Police to retrieve ballots from certain voting jurisdictions so that the recount may be conducted in stages until the requesting candidate or party to the referendum concedes or until all the ballots are recounted.

Sec. 23. 21-A MRSA §737-A, 4th ¶, as enacted by PL 1993, c. 473, §31 and affected by §46, is amended to read:

If, after the official tabulation is submitted to the Governor, the apparent winner is determined the losing candidate, that candidate may request ~~another~~a recount within 3 business days after the date the Governor receives the tabulation.

Sec. 24. 21-A MRSA §737-A, sub-§1, ¶¶A and B, as amended by PL 2003, c. 447, §25, are further amended to read:

A. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is ~~2%~~1% or less of the total votes cast for that office, a deposit is not required.

B. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than ~~2%~~1% and less than or equal to 4% of the total votes cast for that office, the deposit is \$500.

Sec. 25. 21-A MRSA §760-B, as amended by PL 2013, c. 457, §4, is further amended to read:

§ 760-B.Procedures when clerk processes absentee ballots prior to election day

Any municipality or jurisdiction that conducts its own elections may opt to process absentee ballots ~~on the beginning on the 4th~~ day immediately prior to election day, except that processing on a Sunday is not permitted. The clerk shall use the following procedure when processing the absentee ballots during this time.

1. Time for processing. In a municipality that has opted to process absentee ballots on the day ~~immediately~~one or more of the days prior to election day authorized by this section, the municipal clerk or the clerk's designees may process absentee ballots at the times designated by the clerk, between the hours of 9:00 a.m. and 9:00 p.m., except that if an inspection is requested pursuant to subsection 3, processing may not begin until after the inspection period has concluded.

2. Notice of early processing. The clerk must give notice of the municipality's intent to process absentee ballots prior to election day using the notice of election under section 621-A, stating the ~~time~~times and times that the clerk intends to begin processing absentee ballots and the inspection period provided in subsection 3. At least 60 days before election day, the clerk shall provide a copy of the notice of election to the Secretary of State and the chairs of each political party of the municipality indicating that early processing of absentee ballots will occur. The notice to the political parties must be considered sufficient as long as it is mailed to the last address of each municipal chair that is known to the clerk. The notice to the Secretary of State may be delivered by mail or facsimile or as a scanned attachment to an e-mail address established by the Secretary of State. If the notice is not received by the Secretary of State by 5:00 p.m. on the 60th day before election day, the municipality may not process absentee ballots prior to election day.

3. Inspection of absentee envelopes before processing. A member of the public may make a written request of the clerk to inspect absentee ballot applications and envelopes before they are processed if the request is made by 9:00 a.m. on the first day immediately that the clerk will process absentee ballots as specified on the notice of election prior to election day. The clerk shall make the absentee ballot applications and envelopes received by that time available for public inspection for one hour before the starting time specified in the notice of election for processing the absentee ballots. The clerk may immediately proceed to process the ballots after the one-hour inspection time has elapsed.

4. Processing and other procedures. The clerk shall use the procedure described in this section when processing the absentee ballots during the designated times. Procedures for handling full ballot boxes, pollwatching and challenging ballots are conducted in the same manner as election day or as close as practicable.

4-A. Tabulation of absentee ballots at state-designated central locations. The Secretary of State may provide a high-speed ballot tabulator to be made available to any municipality at one or more state-designated central locations for the purpose of scanning and tabulating absentee ballots. If a municipality opts to process absentee ballots using a high-speed ballot tabulator, the municipal clerk must apply to the Secretary of State for authorization. The Secretary of State shall notify the municipal clerk in writing of the Secretary of State's authorization or denial of authorization to use a high-speed ballot tabulator and provide a designated time for the municipality to scan its ballots.

Any municipality authorized to scan absentee ballots at a state-designated central location must first open and process absentee ballots at the times and in the location within the municipality as designated in the notice of election and follow all procedures described in this section. The absentee ballots once removed

from their envelopes must be secured in locked and sealed containers before being transported to the state-designated central location. The Secretary of State shall publish uniform guidelines for securing and transporting ballots and other materials under this subsection.

5. Counting and results prohibited before the polls close. The absentee ballots may not be counted, voter intent may not be determined and election results may not be obtained or released until after the polls have closed on election day, and all election day ballots have been cast and all absentee ballots have been processed. A municipality that uses a high-speed ballot tabulator pursuant to subsection 4-A receives results at the completion of the ballot scanning but may not view the results until after the polls close on election day.

6. Security of processed ballots and tabulating equipment. At the conclusion of absentee ballot processing on the any day immediately prior to election day, the clerk shall ensure that the early processed absentee ballots are locked and sealed in the ballot box, automatic tabulating equipment ballot box or tamper-proof containers provided by the Secretary of State and secured in a vault or other locked secure location, until the voting resumes on election day or until the ballots are counted after the polls close. The Secretary of State shall publish uniform guidelines for securing ballots and other materials under this section.

Sec. 26. 21-A MRSA §783, sub-§5, as enacted by PL 2009, c. 563, §9, is amended to read:

5. Electronic receipt of absentee ballots. Authorizing the electronic receipt of an image of voted absentee ballots transmitted by e-mail or fax from uniformed service voters or overseas voters by a method authorized by the Secretary of State.

Sec. 27. 21-A MRSA §809-A, sub-§1-A, as amended by PL 2007, c. 455, §50, is further amended to read:

1-A. Prohibition not applicable. For the purpose of providing a voting system equipped for individuals with disabilities as required by section 812-A, subsection 1 and the federal Help America Vote Act of 2002, Public Law 107-252, the prohibition in subsection 1 does not apply to the connection of individual voting devices to a central server using a wired, point-to-point telephone connection that is not Internet-enabled when the central server is operated or managed by the Secretary of State.

Sec. 28. 21-A MRSA §809-A, sub-§3, as enacted by PL 2003, c. 651, §4, is amended to read:

3. Internet voting. Use of the Internet for the casting of votes on-line is prohibited. This subsection does not apply to a ballot-marking system or software that is used for voters with disabilities, uniformed service voters or overseas voters to mark a ballot on-line and securely transmit the marked ballot to a central server operated or managed by the Secretary of State, as long as the system does not tabulate the votes marked on those ballots.

SUMMARY

This bill makes the following changes to the election laws.

1. It adds a restriction that a registrar may not serve during an election when an immediate family member of the registrar is a candidate for federal office, and clarifies the language regarding compensation. The restriction previously applied only for candidates for state, local or county offices.

2. It removes the provision regarding the use of a supplemental incoming voting list.

3. It updates the list of the outside agencies that must provide voter registration pursuant to the National Voter Registration Act of 1993.

4. It provides that a primary election for State Senator, State Representative or county office will only be held when there is more than one candidate who has filed a candidate petition and consent; when there is at least one candidate who has filed a candidate petition and consent and at least one candidate who has qualified as a write-in candidate; or when there is no candidate who has filed a candidate petition and consent but there is at least one candidate who has qualified as a write-in candidate. Otherwise, a party candidate is nominated to the general election ballot based on acceptance of a primary petition.

5. It provides that the written acceptance for a replacement candidate must include a place for the registrar of the candidate's municipality of residence to certify the candidate's registration and enrollment status.

6. It changes the deadline for a candidate to withdraw from 60 days to 75 days before a primary or general election and allows for a replacement candidate. It also specifies that the candidate may withdraw only for good cause and must include that reason in the written notice of withdrawal filed with the Secretary of State.

7. It changes the deadline from 60 days to 75 days before the general election for a nonparty candidate for Vice President to withdraw and allow for a replacement candidate.

8. It provides that if a candidate or nominee for a federal or gubernatorial office withdraws less than 75 days before any election, the Secretary of State is not required to produce new ballots.

9. It clarifies that a candidate may withdraw after the withdrawal deadline if the candidate is incapacitated by a catastrophic condition or injury and allows for a replacement candidate. Current law provides for a candidate's withdrawal only for incapacitation due to a catastrophic illness.

10. It adds the restriction that a municipal clerk may not serve as the supervisor of an election when a member of the municipal clerk's immediate family is a candidate for federal, state, county or local office.

11. It changes the date from 30 days to 60 days prior to an election by which the municipal clerk must file a voting place report that includes the location of each voting place, the poll opening time and the number of voting booths to be used.

12. It clarifies the voting procedure by combining the steps of checking voter names on the incoming voting list and giving the ballot to the voter in the same provision of law. It prohibits the practice of handing out the ballot at a separate location from the incoming voting list.

13. It clarifies that it is a violation of law to display, as well as distribute, campaign materials within 250 feet of the voting place or the registrar's office.

14. It specifies that it is a violation of law to communicate in the voting place via text messages or e-mails that influence or attempt to influence another person's decision regarding a candidate or question on the ballot that election day.

15. It provides for a civil violation punishable by a fine for each day the municipal clerk is late in filing an election return after the election.

16. It changes the filing deadline for a declaration of write-in candidacy from 45 days to 70 days before the election.

17. It permits the Secretary of State to retrieve ballots from certain voting jurisdictions and conduct recounts of statewide or multi-county offices or referenda in stages, rather than requiring all the ballots to be retrieved at once.

18. It clarifies that an apparent winning candidate may request a recount if the official tabulation of the vote communicated to the Governor after a recount shows that candidate as the losing candidate.

19. It decreases the percentage difference required, from 2% to 1% or less of the total votes cast for the office, in order to receive a recount without requiring a deposit.

20. It provides that a municipality may opt to process absentee ballots as early as the 4th day before the election. It also authorizes the Secretary of State to make available high-speed ballot tabulators for absentee ballots and to allow a municipality to bring absentee ballots to a state-designated central location for tabulating by the high-speed ballot tabulators as long as security guidelines are properly followed.

21. It allows the Secretary of State to accept voted absentee ballots from uniformed service voters and overseas voters by an electronic means authorized by the Secretary of State.

22. It allows for the connection of individual voting devices to a central server operated or managed by the Secretary of State for voting systems equipped for individuals with disabilities by other than a wired, point-to-point telephone connection.

23. It allows for the use of the Internet to provide a ballot-marking system or software that is used for voters with disabilities, uniformed service voters or overseas voters to mark a ballot and transmit the marked ballot online, as long as the system or software does not tabulate the ballots or transmit the ballot tabulations online.