

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

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

‘**Sec. 1. 30-A MRSA §2501, sub-§3** is enacted to read:

3. Determining and counting write-in votes. A municipality may choose the method of determining and counting write-in votes according to this subsection. Once a municipality has voted to accept the option under this subsection, the option applies to all municipal elections until the municipal officers hold a public hearing and the legislative body of the municipality votes to rescind the option at least 90 days before the next election of candidates by secret ballot.

A. After the municipal officers hold a public hearing, at least 90 days prior to an election of candidates by secret ballot, the legislative body of a municipality may vote to be governed by the provisions of Title 21-A, section 696, subsection 2, paragraph C and Title 21-A, section 722-A. Votes for a write-in candidate are counted only if that candidate has filed a timely declaration of write-in candidacy with the municipal clerk in accordance with Title 21-A, section 722-A, except that votes for write-in candidates who have not filed a declaration of write-in candidacy must be counted if:

(1) The printed ballot does not include a properly nominated candidate for the office; or

(2) A properly nominated candidate for the office listed on the ballot withdraws from the race before or on election day.

B. In a municipality that has not voted under paragraph A to be governed by Title 21-A, section 696, subsection 2, paragraph C and Title 21-A, section 722-A, votes cast for write-in candidates must be counted if:

(1) The printed ballot does not include a properly nominated candidate for the office;

(2) A properly nominated candidate for the office listed on the ballot withdraws from the race before or on election day; or

(3) The number of write-in votes for an office as determined by a machine count or initial hand count exceeds the number of votes in that count for a candidate printed on the ballot.

Votes for write-in candidates may be counted even if none of the criteria listed in subparagraphs (1) to (3) are met in a municipality that has not voted to be governed by Title 21-A, section 696, subsection 2, paragraph C and Title 21-A, section 722-A.

Nothing in this subsection requires a municipal clerk to count or tally write-in votes for a fictitious person, a deceased person or a person from outside the municipality when residency is a qualification of office or who is otherwise not qualified to be a candidate for the office for which the person is a write-in candidate.'

SUMMARY

This amendment replaces the bill. It provides a local option for municipalities to accept the provisions of state election law governing votes for write-in candidates for their municipal elections of candidates by secret ballot. The amendment also provides that a municipality must count votes for write-in candidates only under certain circumstances, such as when there is no properly nominated candidate or when a properly nominated candidate whose name is listed on the ballot withdraws from the race on or before election day.