

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND SIXTEEN

—
S.P. 582 - L.D. 1484

An Act Regarding the Election Laws

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

Whereas, this legislation makes necessary changes to improve the administration of primary and general elections; and

Whereas, changes related to the administration of the primary election would not take effect until after the election unless enacted as emergency legislation; and

Whereas, in order to treat primary and general election candidates the same, these changes must be in effect for both elections in the same election year; 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. 21-A MRSA §101, sub-§1, ¶A, as enacted by PL 2009, c. 538, §4, is amended to read:

A. Hold or be a candidate for any federal, state or county office;

Sec. 2. 21-A MRSA §101, sub-§10, as enacted by PL 2007, c. 455, §3, is amended to read:

10. Ineligible to serve. When a registrar or 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. 3. 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. 4. 21-A MRSA §152, sub-§1, ¶A, as amended by PL 2007, c. 455, §7, is repealed and the following enacted in its place:

A. The legal name of the voter, in one of the following combinations:

- (1) First name and last name;
- (2) First initial, middle name and last name; or
- (3) First name, middle name or middle initial and last name;

Sec. 5. 21-A MRSA §152, sub-§1, ¶F, as enacted by PL 1985, c. 161, §6, is amended to read:

F. Most recent prior residence where registered to vote, including the municipality, county and state, and the name under which previously registered, if changed, ~~legal address and mailing address;~~

Sec. 6. 21-A MRSA §181, sub-§1, ¶B, as amended by PL 2003, c. 407, §14 and 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 supplement 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. 7. 21-A MRSA §196-A, sub-§1, ¶B, as amended by PL 2013, c. 330, §1, is further amended to read:

B. A political party, or an individual or organization engaged in so-called "get out the vote" efforts directly related to a campaign or other activities directly related to a campaign, or an individual who has been elected or appointed to and is currently serving in a municipal, county, state or federal office, may purchase a list or report of certain voter information from the central voter registration system by making a request to the Secretary of State or to a registrar if the information requested concerns voters in that municipality. The Secretary of State or the registrar shall make available the following voter record information, subject to the fees set forth in subsection 2: the voter's name, residence address, mailing address, year of birth, enrollment status, electoral districts, voter status, date of registration, date of change of the voter record if applicable, voter participation history, voter record number and any special designations indicating uniformed service voters, overseas voters or township voters. Any person obtaining, either directly or indirectly, information from the central voter registration system under this paragraph may not sell, distribute or use the data for any purpose that is not directly related to activities of a political party, "get out the vote" efforts directly related to a campaign or other activities directly related to a campaign. This paragraph does not prohibit political parties, party committees, candidate committees, political action committees or any other organizations that have purchased information from the central voter registration system from providing access to such information to their members for purposes directly related to party activities, "get out the vote" efforts or a campaign. For purposes of this paragraph, "campaign" has the same meaning as in section 1052, subsection 1.

Sec. 8. 21-A MRSA §331, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Nomination by primary election. A party's nomination of a candidate ~~for any federal, state or county office shall~~ must be made by primary election, as provided in this Article. When there is an office for which no candidate has qualified either by filing a petition and consent under sections 335 and 336 or as a write-in candidate in accordance with section 722-A, the Secretary of State is not required to list the office on the primary

ballot. The Secretary of State is not required to print a primary ballot if there are no offices for which a candidate has qualified.

Sec. 9. 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. 10. 21-A MRSA §367, as amended by PL 1995, c. 459, §31, is further amended to read:

§367. Candidate withdrawal

A candidate who wishes to withdraw from an elective race shall notify the Secretary of State in writing of the candidate's intent to withdraw. This notice must be signed by the candidate. If the reason for the withdrawal is catastrophic illness, condition or injury, the procedures set forth in section 374-A, subsection 1, paragraph B must be complied with if the candidate is to be replaced.

Sec. 11. 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 at least ~~60~~ 70 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. The Secretary of State shall declare the vacancy pursuant to section 362-A. Less than ~~60~~ 70 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. 12. 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 as long as~~ the candidate or a member of the candidate's immediate family files with the Secretary of State a certificate accompanying the withdrawal request, ~~which that~~ describes the illness, condition or injury and is signed by ~~at least 2 a~~ licensed ~~physicians~~ physician; or

Sec. 13. 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 ~~60~~ 70 days before the general election in order for the candidate's name to be removed from the ballot. Less than ~~60~~ 70 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. 14. 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 ~~60~~ 70 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. 15. 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 ~~60~~ 70 days before any election, the Secretary of State is not required to produce new ballots.

Sec. 16. 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. 17. 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. 18. 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. 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. 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.

Sec. 19. 21-A MRSA §671, sub-§3, as amended by PL 2009, c. 253, §26, is repealed.

Sec. 20. 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. 21. 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. 22. 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. 23. 21-A MRSA §698, sub-§3, as amended by PL 2007, c. 515, §6, is further amended to read:

3. Incoming voting lists packed separately. The warden and one election clerk from each of the major parties shall sign the incoming voting list certification as soon as the names of all persons who have voted, including persons who have voted by absentee ballot, have been checked off. The election clerks shall place the incoming voting list in a separate package outside the containers of used and unused ballots and seal the package with the signed incoming voting list certification. The incoming voting list includes any certificates entitling voters to be placed on the incoming voting list ~~and any supplemental incoming voting list, where applicable,~~ pursuant to section 122, subsection 7. The municipal clerk shall keep these incoming voting lists sealed for 5 business days after the election or until the time for any recount conducted under section 737-A, contested election or appeal has passed, whichever is longer. At the end of the 5th business day after the election, if the municipal clerk verifies that a recount has not been requested, the

municipal clerk shall unseal the incoming voting list and keep it in the clerk's office as a public record for the time required pursuant to section 23.

Sec. 24. 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~~ may send a ~~messenger~~ courier to the municipality concerned, and the clerk shall give that ~~messenger~~ courier a certified copy of the return. The municipality shall reimburse the Secretary of State for the costs of the courier service.

Sec. 25. 21-A MRSA §721, as amended by PL 2009, c. 253, §35, is further amended to read:

§721. Reports of registration and enrollment

Within ~~40~~ 15 business days after any statewide election, the registrar shall update all information in the central voter registration system for all voters in the municipality to reflect any voter registration activity after the incoming voting list was printed for that election and up until the close of the polls on election day. The registrar shall also enter any designations of challenged ballots in the applicable voter records in the central voter registration system. The registrar shall notify the Secretary of State as soon as these tasks are complete.

After the registrar has completed the update of the central voter registration system, as required by this section, and no later than ~~20~~ 45 business days after the election, unless a recount has been requested pursuant to section 737-A, the clerk shall update the central voter registration system by entering voter participation history for that election. The clerk shall notify the Secretary of State as soon as this task is completed.

In a municipality in which a recount has been requested pursuant to section 737-A, the clerk shall update the central voter registration system by entering voter participation history for that election within ~~40~~ 20 business days after receiving the incoming voting list that has been returned by the Secretary of State after the recount. The clerk shall notify the Secretary of State as soon as this task is completed.

Sec. 26. 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~~ 60th day prior to the election. The candidate must meet all the other qualifications for that office.

Sec. 27. 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 the lead applicant for a referendum recount concedes or until all the ballots are recounted.

Sec. 28. 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. 29. 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%~~ 1.5% 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%~~ 1.5% and less than or equal to 4% of the total votes cast for that office, the deposit is \$500.

Sec. 30. 21-A MRSA §777-A, as amended by PL 2011, c. 534, §21, is further amended to read:

§777-A. Registration and enrollment

Notwithstanding the registration deadline in section 121-A, uniformed service voters or overseas voters may register or enroll at any time prior to 5 p.m. on election day by completing a federal or state voter registration application form and filing it with the registrar or the Secretary of State in person, by mail or by electronic means authorized by the Secretary of State.

Sec. 31. 21-A MRSA §781-A, as amended by PL 2011, c. 534, §22, is further amended to read:

§781-A. Absentee ballot application; procedure on receipt

Notwithstanding the absentee ballot application deadline in section 753-B, subsection 2, paragraph D, upon receipt of an application or written request for an absentee ballot prior to 5 p.m. on election day from a uniformed service voter or overseas voter that is accepted pursuant to section 753-A or section 783, the clerk or the Secretary

of State shall immediately issue an absentee ballot and return envelope by the authorized means designated by the voter in the application. If the ballot is to be transmitted to the voter by mail, the clerk or the Secretary of State shall type or write in ink the name and the residence address of the voter in the designated section of the return envelope. The Secretary of State shall provide a return envelope that moves free of postage under federal law.

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