

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY

S.P. 691 - L.D. 1989

An Act To Amend the Laws Governing Recounts in Municipal Elections

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 corrects an error in Public Law 2019, chapter 288, An Act To Clarify Recounts in Municipal Elections, by expanding the recount process created in that law to all elections for municipal office, not just to the election of a municipal officer; and

Whereas, delay in the effective date of this legislation will mean that the municipal recount process for upcoming municipal elections will apply to some but not all of the elected persons; 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. 30-A MRSA §2531-B, sub-§11, as enacted by PL 2019, c. 288, §1, is amended to read:

11. Procedure at recount. A recount in an election ~~of a~~ for municipal ~~officer~~ office must be conducted according to the procedures in this subsection unless the municipal legislative body adopts the recount procedures of Title 21-A, section 737-A and the rules adopted pursuant to that section, except that Title 21-A, section 737-A, subsections 1, 5 and 12 and the duties of the State Police do not apply.

A. The municipal clerk shall publicly explain the recount procedure at the start of the recount and shall supervise the sorting and hand counting of the votes in public with assistance from counters appointed by the clerk.

B. A candidate may provide counters to conduct the recount under the supervision of the municipal clerk. If an insufficient number of counters is provided, the clerk shall supply counters. Municipal officers and candidates on that election ballot may not serve as counters.

C. The municipal clerk and counters shall follow all applicable laws and the rules for determining voter intent adopted by the Secretary of State pursuant to Title 21-A, section 696, subsection 6.

D. If any ballots are disputed as to voter intent, the candidates may resolve the dispute by consensus in accordance with rules for determining voter intent adopted by the Secretary of State pursuant to Title 21-A, section 696, subsection 6. If consensus cannot be reached, those disputed ballots must be set aside. If the number of disputed ballots potentially affects the outcome of the recount, the municipal clerk shall forward the disputed ballots to the clerk of the nearest Superior Court in the county in which the election was held.

E. Upon written request, the municipal clerk shall make the incoming voting list and absentee ballot materials, along with all records required by law to be kept in connection with the election, available for inspection, unless those materials have been requested as part of a state recount.

F. After the recount, the municipal clerk shall reseal the package of ballots and incoming voting list and shall note on the package the fact that the recount was held and the date of the recount.

G. In order to withdraw from a recount, a candidate must notify the municipal clerk of the intent to withdraw and the reason for withdrawal. The notice must be signed by the candidate, notarized and delivered to the municipal clerk prior to or during the scheduled recount. In the event of a withdrawal, the final election day tabulation is considered the final result.

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