

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE

1954

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1955 SUPPLEMENT

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ANNOTATED

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tificates and papers for the nomination of candidates for the office of mayor and all other offices in cities shall be filed with the city clerks of the respective cities at least 14 days, exclusive of Sundays, previous to the day of election. Such certificates and papers for the nomination of candidates to be voted for at any special election to be held for choice of United States senators, representatives to congress or members of the legislature shall be filed with the secretary of state at least 14 days, exclusive of Sundays, previous to the day of election. Whenever state, county, city or town committees are required by law to nominate candidates for public office, a certificate as provided in section 57 shall be filed with the secretary of state at least 5 days following such nomination. With nomination papers and certificates shall also be filed the consent in writing of the person nominated. (R. S. c. 4, § 55. 1953, c. 365, § 14. 1955, c. 47, § 5.)

**Effect of amendment.**—The 1955 amendment inserted the next to the last sentence.

## Chapter 5.

### Elections. Congressional Districts. Presidential Electors.

#### Preparation and Distribution of Ballots.

**Sec. 2. Specimen ballots of nominations transmitted to clerks 7 days before any election, and published.**—The secretary of state shall, 7 days at least previous to the day of any state election, transmit to the clerk in each city, town and plantation in which such election is to be held, specimen ballots containing the names, residences and party or political appellations of all candidates nominated as provided in chapter 4 for such election and to be voted for at each voting place in each such city, town and plantation respectively, substantially in the form of the general ballot to be so used therein; and the clerks shall immediately cause the specimen ballots for each ward, town or plantation, as the case may be, to be conspicuously posted in one or more public places in such ward, town or plantation. The secretary of state shall likewise cause to be published prior to the day of any such election, in at least 2 newspapers, if there be so many printed or published in each county, representing so far as practicable, the political parties which, at the preceding election, cast the largest and next largest numbers of votes, a specimen ballot of all such nominations, so far as may be, in the form in which they shall appear upon the general ballots. Monthly newspapers may be used for this purpose when authorized by the governor and council. New nominations made or authorized shall be transmitted, posted and published promptly, and so far as practicable in the manner herein directed, and communications transmitted as herein directed by the secretary of state to any clerk shall be duplicated on the succeeding day. (R. S. c. 5, § 2. 1951, c. 348, § 6. 1955, c. 397.)

**Effect of amendment.**—The 1955 amendment inserted the third sentence.

#### Notifying Meetings and Proceedings. Ballot Boxes.

**Sec. 25. Clerks to preserve check lists, and furnish certified copies thereof.**—Clerks of towns shall preserve the check lists used at any election for 1 year without alteration, and shall furnish to any person a certified copy thereof within 20 days after demand and payment or tender of the legal charges therefor, and shall without charge furnish the governor and council with a certified copy thereof within 20 days after demand, under the penalty provided in section 96. (R. S. c. 5, § 25. 1955, c. 204, § 1.)

**Effect of amendment.**—The 1955 amendment deleted the words "at which the ballots cast are to be returned to the secre-

tary of state under the provisions of this chapter" after the word "election" in line two.

**Manner of Voting and Returns.****Sec. 39. Ballots, how counted.**

Such indorsement shall be signed by the ward, town or plantation clerk and by the wardens in cities or voting precincts, or by a majority of the selectmen of towns and of the assessors of plantations. The ballots and signed statements of officials returned to the city clerk after any city election and all other ballots returned to him shall be preserved by him as a public record for 3 months. The provisions of this section shall apply to all elections, including primary elections and elections for determining initiated and referendum questions. (R. S. c. 5, § 39. 1953, c. 365, § 17. 1955, c. 204, § 2.)

**Effect of amendment.**—The 1955 amendment deleted the words “check list” after the word “ballots” in line three of the last paragraph and substituted “3” for “6”

in line five of the last paragraph. As the rest of the section was not changed by the amendment, only the last paragraph is set out.

**Sec. 43. Secretary of state to send messenger for returns or ballots; expense of messenger, how paid.**—At the expiration of 14 days after any election specified in the preceding section, the secretary of state shall forthwith send a messenger to every town from which returns of votes have not been received, as provided in the preceding section, and the expense of each messenger shall be audited and paid as provided in section 79. (R. S. c. 5, § 44. 1953, c. 365, § 18. 1955, c. 30, § 1.)

**Effect of amendment.**—The 1955 amendment deleted the words “and added to the

next state tax assessed on the town,” formerly appearing at the end of the section.

**Unincorporated Places.**

**Sec. 65-A. Voting places for Indians.**—The municipal officers of the city of Old Town are directed to establish a voting place on Indian Island in the county of Penobscot to be designated, “Old Town Indian Island Voting District,” at which polling place all Indians residing on the Indian Island tribal reservation and otherwise qualified in accordance with section 1 of article II of the Maine constitution shall vote in all state, county and national elections, including primary elections. A warden, ward clerk and as many election clerks, not less than 2 in number as said municipal officers may deem necessary, shall be selected for said Old Town Indian Island Voting District in the same manner as the warden, ward clerk and election clerks are selected for the several wards in the city of Old Town.

The municipal officers of the town of Princeton are directed to establish a voting place at Peter Dana Point in Indian Township in the county of Washington to be designated, “Peter Dana Point Voting District,” at which polling place all Indians residing on the tribal reservation at Peter Dana Point and otherwise qualified in accordance with section 1 of article II of the Maine constitution shall vote in all state, county and national elections, including primary elections. A warden, who shall be a resident of the town of Princeton, shall be appointed by the municipal officers of said town to act as the presiding officer at said Peter Dana Point Voting District. Two election clerks, who shall be residents of the town of Princeton, shall be appointed by the selectmen in the same manner as provided in section 14.

The municipal officers of the town of Perry are directed to establish a voting place at Pleasant Point in the town of Perry and county of Washington to be designated, “Pleasant Point Voting District,” at which polling place all Indians residing on the tribal reservation at Pleasant Point and otherwise qualified in accordance with section 1 of article II of the Maine constitution shall vote in all state, county and national elections, including primary elections. A warden, who shall be a resident of the town of Perry, shall be appointed by the municipal officers of said town to act as the presiding officer at said Pleasant Point Voting

District. Two election clerks, who shall be residents of the town of Perry, shall be appointed by the selectmen in the same manner as provided in section 14.

The secretary of state shall furnish ballots and blank returns for said voting districts in accordance with the provisions of chapters 4 and 5. The ballots shall be sorted and counted and the return of the vote made to the city and town clerks in accordance with the provisions of section 39.

Election officials appointed to serve at the polling places hereby created shall be paid by the city of Old Town and towns of Princeton and Perry. They shall be paid at the same rate of compensation received by officials performing similar duties at the regularly established polling places in such municipalities. The city of Old Town and the towns of Princeton and Perry shall be reimbursed by the state from funds appropriated for support of the Indian tribes.

The fact that any Indian receives relief funds directly or indirectly from the state or any municipality shall not operate to give such Indian the status of a pauper so that he shall be denied on that account the right to vote. (1955, c. 190.)

### Choice of Electors of President and Vice-President.

**Sec. 78. Votes, how received, returned and counted; secretary to send for delinquent returns; notice to persons elected.**—The votes shall be sorted, counted, declared and recorded; and the returns of the number of ballots and of the votes given for each candidate shall be made, according to the constitution and laws, to the secretary of state, on or before the 2nd Tuesday after such meeting; on said 2nd Tuesday, the governor and council shall be in session, and shall open, examine and count the returns of votes so made, and the secretary of state shall forthwith send a messenger to every city and town from which a return has not been received at his office for the purpose of procuring the wanting return and the governor and council shall again meet not later than the 1st day of December following such election, and examine and count all the votes received from the several cities, towns and plantations and the votes of citizens in the military service lawfully returned into the office of the secretary of state; and they shall forthwith send a certificate of election to each person who has received the greatest number of all the votes returned, not exceeding the number to be chosen. (1955, c. 47, § 6.)

**Effect of amendment.**—The 1955 amendment substituted “not later than the 1st day of December” for “on the 3rd Tuesday” near the middle of the first para-

graph. As only the first paragraph was changed by the amendment, the rest of the section is not set out.

**Sec. 79. Expense of sending for returns to be paid by state.**—The expense of each messenger sent as required by the preceding section shall be audited and allowed by the governor and council, and paid out of the state treasury; but if the same messenger is sent to two or more towns on the same route, the amount to be paid by each of them shall be apportioned by the governor and council according to their relative distances and the expense of traveling. If the governor and council determine that the officers of any delinquent town have not fully performed their duties in making the required returns, the amount so paid shall be repaid the state by such town. Such town shall be precluded from drawing from the state treasury any funds set apart for such town so long as such amount remains unpaid. (R. S. c. 5, § 80. 1955, c. 30, § 2.)

**Effect of amendment.**—The 1955 amendment deleted, in the first sentence, a provision for adding the expense of sending

for returns to the state tax of the delinquent town, and added the second and third sentences.

**Sec. 81. Duties of governor; meetings of electors; vacancies.**—As soon as practicable after the electors are chosen, the governor shall communicate by registered mail under the seal of the state to the administrator of general services of the United States a certificate of the ascertainment of the electors, setting

forth the names of the electors, and the number of votes given for each person voted for; and the governor shall deliver to the electors, on or before the 1st Monday after the 2nd Wednesday of December next after their election, 6 original duplicates of the same certificate under the seal of the state. If there shall have been any contest concerning the choice of any electors, or in case of a choice under the provisions of the preceding section, the governor, after such determination, shall communicate under the seal of the state to the administrator of general services of the United States a certificate of such determination in form and manner as the same shall have been made. The electors shall convene in the senate chamber at Augusta on the 1st Monday after the 2nd Wednesday of December next after their election, at 2 o'clock in the afternoon; and if any elector so chosen is not present, the electors then present, by a majority of votes, shall forthwith elect a qualified person to supply such deficiency. (R. S. c. 5, § 82. 1955, c. 47, § 7.)

**Effect of amendment.**—The 1955 amendment substituted “administrator of general services” for “secretary of state” in the first and second sentences.

### **Sec. 82. Proceedings of presidential electors.**

**III.** On the day thereafter they shall forward by registered mail two of such certificates and lists to the administrator of general services of the United States at the seat of government. (1955, c. 47, § 8.)

**Effect of amendment.**—The 1955 amendment substituted “administrator of general services” for “secretary of state” in subsection III. As the rest of the section was not changed by the amendment, only subsection III is set out.

## **Contested Elections.**

### **Sec. 84. Claimant of county or municipal office to proceed as in equity.**

Applied in *Miller v. Hutchinson*, 150 Me. 279, 110 A. (2d) 577.

## **Chapter 6.**

### **Absent Voting. Physical Incapacity Voting.**

The right to vote in absentia by absentee ballot is statutory and one who exercises such statutory rights must comply substantially with the provisions of the statute. *Miller v. Hutchinson*, 150 Me. 279, 110 A. (2d) 577.

#### **Sec. 2. Secretary of state to prepare ballots, blank forms, instructions, etc., for city and town clerks.**

**Requirements mandatory.**—This section directs the city clerk to prepare an absentee voting ballot, a blank form of application for such ballot and envelopes of sufficient size to contain the ballot. Among other requirements the aforesaid envelopes are to bear on the reverse side the required affidavit prescribed by subsection IV. These statutory requirements are mandatory. *Miller v. Hutchinson*, 150 Me. 279, 110 A. (2d) 577.

The oath required by this section is mandatory and failure of the voter to make or take such an oath, administered

by a qualified official, is fatal and invalidates the vote so cast. *Miller v. Hutchinson*, 150 Me. 279, 110 A. (2d) 577.

**Certificate on envelope held insufficient.**—A certificate on the envelope of an absentee ballot that “the above statements made by said affiant are true to the best of my knowledge and belief” does not constitute a compliance with this section, which requires a jurat that the voter “personally appeared \* \* \* and made oath to the truth of the statement contained hereon.” *Miller v. Hutchinson*, 150 Me. 279, 110 A. (2d) 577.

**Sec. 6. Procedure in cities.**—When a written request for an absent voting ballot or physical incapacity voting ballot is received by the clerk of a city, he shall forthwith mail or deliver the application and ballot to the applicant; provided, however, that if the request is made on the form prescribed by subsections