

MAINE STATE LEGISLATURE

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CHAPTER 23

DUTIES AND PROCEDURES ON ELECTION DAY

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SUBCHAPTER I

MATERIALS

Sec.

801. Furnishing and distribution.
 802. Certified voting list and official ballot box.

§ 801. Furnishing and distribution

The following procedure must be observed on election day.

1. Election materials sent to voting place. Before the opening of the polls, the clerk shall deliver the election materials marked for each voting place to the warden at that voting place. The warden shall give the clerk a receipt for them.

A. Exception. In a municipality which has an island voting district, the clerk may deliver the ballots and other election materials to that district on the day before an election, and leave them in the protective custody of the warden or ward clerk.

2. Election materials distributed and posted. At the opening of the polls, the warden shall open the boxes of election materials, break the seals on the packages publicly and distribute the ballots to the incoming election clerks. He shall then post an instruction poster in each voting booth, and 3 instruction posters and 5 specimen ballots in the voting room outside the guardrail.

3. Ballot box examined. The warden shall then open the official ballot box, examine it and show publicly that it is empty.

Immediately after examination, he shall lock the box and deliver the key to the ward clerk who shall keep it until the polls are closed. After the box has been locked, it may not be moved until the polls are closed.

4. Voting starts. As soon as the duties required by subsections 1 to 3 have been performed, the warden shall permit voting to start.

1961, c. 360, § 1.

§ 802. Certified voting list and official ballot box

The certified copies of the voting list provided by the registrar and only one official ballot box must be used exclusively at each voting place.

1961, c. 360, § 1.

SUBCHAPTER II

POWERS AND DUTIES OF OFFICIALS

Sec.

831. Registrar.

832. Warden.

833. Emergency ballot box procedure.

§ 831. Registrar

The registrar shall hold office hours while the polls are open on any election day for the following purposes:

1. Error in voting list. He shall correct any error in the voting list which might otherwise deprive a voter of his franchise.

A. Appear before registrar. A voter who is prevented from voting because his name or address does not appear correctly on the voting list may request the registrar to correct it.

B. Certificate issued. If the name or address of the voter was omitted by error from or placed incorrectly on the voting list, the registrar shall issue a certificate to him containing his correct name and address and directed to the warden of his voting place. The registrar shall correct it on the voting list.

C. Vote permitted. On receipt of the certificate, the warden shall allow the person named in it to vote, check his name on

the certificate as having voted, and attach the certificate securely to the incoming voting list.

2. Change of name or address. He shall change a name or address on the voting list.

A. Appear before registrar. A voter whose name or address has changed as provided in section 638 may request the registrar to change it on the voting list.

B. Certificate issued. The registrar shall issue a certificate to him and he may vote as provided in subsection 1.

3. Limited registration and unlimited enrollment. He shall accept registrations in a municipality of 2,500 or less population. He shall accept the registration of a person who becomes 21 years of age on election day or after the close of registrations prior to it, in any municipality. He shall accept the enrollment of any voter as provided in section 133.

1961, c. 360, § 1.

§ 832. Warden

A warden has the following powers and duties:

1. Enforcement of election law. He shall enforce the law governing voting and counting procedures at the voting place over which he has jurisdiction on election day.

2. Order at voting place. He shall keep order at all times in and around the voting place. He shall order any person who creates a disturbance or otherwise violates the law at the voting place to be removed from it and, if necessary, confined until the polls are closed.

A. Duty of peace officer. On request of the warden, a peace officer shall remove, confine or arrest a person who creates a disturbance or otherwise violates the law at a voting place.

3. Control of election clerks. The election clerks at the voting place are under the supervision and control of the warden. He may assign their duties for convenience and efficiency and may delegate to them his duties of a ministerial nature.

1961, c. 360, § 1.

§ 833. Emergency ballot box procedure

If it becomes impossible to use the official ballot box, the warden shall direct the method by which voting is to proceed.

The ward clerk shall record the reason why the ballot box was not used and shall place an attested copy of the record in the package with the ballots cast.

1961, c. 360, § 1.

SUBCHAPTER III

VOTING AND CHALLENGES

Sec.

861. Voting procedure.

862. Assistance.

863. Challenges.

§ 861. Voting procedure

The voting procedure is as follows:

1. Name announced. A voter who wishes to vote must state his name, and street address in a municipality which has voting districts, to an incoming election clerk who shall announce the name in a loud, clear voice.

2. Enters guardrail. The incoming election clerk in charge of the voting list shall place a check mark on the list beside the voter's name and allow him to enter the area within the guardrail.

3. Ballot issued. The incoming election clerk in charge of the ballots shall give the voter one ballot of each kind to which he is entitled.

4. Retires to voting booth. After receiving his ballot, the voter shall retire to a voting booth, mark his ballot without delay, fold it the same as it was when he received it, and leave the voting booth.

5. Ballot deposited. When he leaves the voting booth, the voter shall proceed to the ballot box and announce his name to the outgoing election clerk in charge of the voting list. As soon as the outgoing election clerk checks his name on the list, he shall deposit his ballot in the ballot box and leave the area within the guardrail. He may not leave the area within the guardrail until he has deposited his ballot.

6. Re-entry prohibited. A voter who has once left the area within the guardrail may not re-enter.

7. Ballot box opening covered. The outgoing election clerk in charge of the ballot box shall keep the opening covered except when receiving a ballot.

1961, c. 360, § 1.

§ 862. Assistance

A voter who is unable to read or mark his ballot because of physical disability, or whose religious faith prevents him from marking his ballot, may obtain assistance in so doing.

1. Procedure. The voter shall declare his disability to the warden. The warden shall designate 2 election clerks representing different political parties to assist the voter.

A. Exception. In a primary election the election clerks designated by the warden must be of the same political party as the voter.

1961, c. 408, § 5.

2. Ballot marked in confidence. The election clerks shall mark the ballot or assist the voter in doing so without attempting to influence his vote. They shall write on the outside of the ballot that it was marked by them or by the voter with their assistance and sign their names. They shall not reveal the names of the persons for whom the ballot was cast.

3. Assistance not offered. An election official shall not offer a voter assistance in marking his ballot until directed to do so by the warden.

4. Blindness. A voter who is blind may obtain assistance in marking his ballot from 2 election officers, not of the same political faith, but may be of the same political faith at primary elections, or father, mother, brother, sister, husband, wife or child as he may select, providing that said aide is of voting age and that no candidate for election shall act as aide. (1963, c. 127.)

1961, c. 360, § 1; c. 408, § 5; 1963, c. 127.

§ 863. Challenges

A voter of any municipality may challenge the right of another to vote at any election in that municipality.

1. How made. The challenge must be made to the warden. The challenger shall state his name, the name of the voter challenged and the reason for the challenge.

2. Voting list marked. As soon as the challenge has been made, the election clerk in charge of the incoming voting list shall write "Challenged" beside the voter's name on the list, and give a ballot to the warden.

3. Ballot marked. The warden shall write "Challenged" on the outside of the ballot, the name of the challenger, the name of the voter challenged and the reason for the challenge over his signature. An election clerk from each political party shall sign his name as a witness to the statements and the signature of the warden.

4. Proceed to vote. The challenged voter shall then proceed to vote in the usual way using the marked ballot.

1961, c. 360, § 1.

SUBCHAPTER IV

RESTRICTIONS

Sec.

891. Positions at polling place.

892. Political activities.

§ 891. Positions at polling place

The guardrail area is governed by the following provisions:

1. Within the guardrail. Election officials and not more than 2 voters in excess of the number of voting booths may be within the guardrail. The warden may permit peace officers to be within the guardrail to enforce the law. All other persons must remain outside.

2. Limited time within guardrail or voting machine. A voter may not remain within the guardrail for more than 10 minutes, and may not occupy a voting booth or voting machine for more than 5 minutes.

1963, c. 78, § 10.

3. Voting booth. No one may enter a voting booth with a voter, except when he requests assistance as provided in section 862.

4. Outside the guardrail. Party workers and others may remain in the voting place outside the guardrail as long as they do not attempt to influence or interfere with the free passage of

voters. If any person attempts to influence or interferes with the free passage of voters, the warden shall have him removed from the voting place.

1961, c. 360, § 1; 1963, c. 78, § 10.

§ 892. Political activities

On election day certain activity is prohibited in or near the voting place.

1. Instruction limited. Within the voting place, a person shall not instruct another in the method of marking his ballot, except as provided in section 862.

2. Influence prohibited. Within the voting place, a person shall not influence or attempt to influence another as to his choice of candidates.

A. Limitation. This does not prohibit a candidate from attendance at the voting place and oral communication with voters as long as he does not attempt to influence their vote.

3. Advertising prohibited. A person shall not display any advertising material or operate any advertising medium intended to influence the opinion of any voter, within 250 feet of the entrance to the voting place.

A. Exceptions. This does not apply to advertising material on automobiles traveling to and from the voting place. It does not prohibit a person from passing out stickers at the voting place which are to be pasted on the ballot at a primary election. It does not prohibit a person from wearing a campaign button.

1961, c. 360, § 1.

SUBCHAPTER V

MARKING, COUNTING AND HANDLING OF BALLOTS

Sec.

- 921. Marking ballots; primary election.
- 922. —General election.
- 923. Spoiled ballots.
- 924. Counting of ballots.
- 925. Challenged, defective or void ballots.
- 926. Packaging and return of ballots and lists.
- 927. Sealing of ballot container.

§ 921. Marking ballots; primary election

A voter shall mark his ballot at a primary election with a cross (X) or a check mark (✓) according to the following provisions:

1. Individual square method. He shall place the mark in the square at the right of each candidate for nomination for whom he wishes to vote.

2. Write-in vote. If he wishes to vote for a person whose name is not on the ballot, he shall write the name or paste a sticker containing the name in the blank space provided at the end of the list of candidates for nomination to the office in question. He shall then place the mark in the square at the right of it.

1961, c. 360, § 1.

§ 922. —General election

A voter shall mark his ballot at a general election with a cross (X) or a check mark (✓) according to the following provisions:

1. Straight ticket. If he wishes to vote a straight party ticket, he may place the mark in the party square, or in the square at the right of each nominee of that party.

A. Vote omitted. If he does not wish to vote for a nominee under the political designation whose party square he has marked, he shall draw a line through the name of that nominee.

2. Split ticket. If he wishes to vote a split ticket, he may do so in either of 2 ways:

A. Party square method. He shall first place the mark in a party square. He shall next draw a line through the name of each nominee of that party for whom he does not wish to vote. He shall then place the mark in the square at the right of each nominee under another political designation for whom he wishes to vote.

B. Individual square method. He shall place the mark in the square at the right of each nominee for whom he wishes to vote regardless of political designation, leaving all party squares blank.

3. Write-in vote. If he wishes to vote for a person whose name is not on the ballot, he shall write the name in the blank

space provided at the end of the list of nominees for the office in question. He shall then place the mark in the square at the right of it, and if he has voted by the party square method, he must draw a line through the name of the nominee for whom he does not wish to vote. A write-in vote may be cast in combination with a straight or split ticket.

A. Stickers prohibited. A sticker may not be used to vote for a write-in candidate.

4. Referendum question. In voting on a referendum question, he shall place the mark in the square of his choice at the right of the question.

1961, c. 360, § 1.

§ 923. Spoiled ballots

If a voter spoils his ballot, he may obtain a replacement not more than twice by returning the spoiled ballot to the election clerk in charge of issuing ballots.

1. Spoiled ballot cancelled. The election clerk shall mark "Spoiled by voter" on the outside of the spoiled ballot, sign it and keep it segregated from the other ballots.

1961, c. 360, § 1.

§ 924. Counting of ballots

The election officials shall count the ballots under the supervision of the warden, as soon as the polls are closed.

1. Counted in public. The ballots must be counted publicly so that those present may observe the proceedings.

2. Separated into lots. In counting the ballots, the election clerks shall separate them into distinct lots. They shall place with each lot a statement of the count in that lot and the names of the election clerks who made the count.

3. Results declared. As soon as the ballots are counted, the warden shall declare the results publicly at the voting place.

1961, c. 360, § 1.

§ 925. Challenged, defective or void ballots

The counting of ballots is governed by the following provisions:

1. Challenged ballot. A challenged ballot must be counted the same as a regular ballot. The validity of a challenged ballot need not be determined unless it affects the result of an election. If the challenged ballot affects the result of an election, its validity must be determined by the Governor and Council subject to the right of appeal provided in section 1212, except where final determination of the election of a candidate is governed by the State or Federal Constitution.

2. Defective ballot. A defective ballot must not be counted for the office, candidate or question affected by the defect, as follows:

A. Too many marks. If a voter marks more names for an office than there are vacancies to be filled, his vote for that office must not be counted.

B. Choice indefinite. If a voter marks his ballot in such a way as to make his choice impossible to determine, his vote for the office or question concerned must not be counted.

C. Improper location of mark. If a voter fails to mark his ballot so that the intersection of the cross or the apex of the check mark is within the proper square, the mark is ineffective and his vote for the candidate or question concerned must not be counted.

3. Void ballots. A void ballot must not be counted.

A. Improper ballot. A ballot which is not prepared in accordance with the requirements of this Title is void.

B. Distinguishing marks. If a voter places a distinguishing mark anywhere on his ballot, the ballot is void.

1961, c. 360, § 1.

§ 926. Packaging and return of ballots and lists

As soon as the election return has been prepared, the election officials shall perform the following duties:

1. Ballots packed. The election clerks shall pack each lot of used ballots and the tabulation of the count in that lot in a sealed package. Referendum ballots must be packaged separately.

A. Packages marked. Each package must be marked substantially as follows: "This package contains ballots cast at the (title of election) election held in (name of voting district and municipality) on (date of election). These ballots were counted, declared, recorded and packaged publicly in accordance with M.R.S.A., 1964, Title 21, Section 926." This statement must be subscribed by the warden and the ward clerk.

2. Ballots replaced in containers. The election clerks shall place the sealed packages of used ballots, unused ballots, spoiled ballots, defective ballots, absentee ballots, envelopes and applications in the containers in which they were delivered. They shall then seal the containers publicly.

3. Lists packed separately. The election clerks shall seal the copies of the check list in a separate package outside the containers of ballots.

4. Ballots and lists returned. The warden shall deliver the ballots and lists to the clerk within 24 hours after the closing of the polls.

1961, c. 360, § 1.

§ 927. Sealing of ballot container

When a container is required to be sealed, it must be done so that the seal on the container must be broken before its contents can be examined.

1961, c. 360, § 1.

SUBCHAPTER VI

RETURNS

Sec.

961. Preparation of.

962. Lost or not delivered.

§ 961. Preparation of

As soon as the results of the election have been declared, the election return must be prepared.

1. Town. In a town which has one voting district, the clerk shall fill out in duplicate the election return form provided by the Secretary of State, showing the number of votes cast for each

candidate or question. He shall sign the return, have it attested by the warden and send the duplicate copy forthwith to the Secretary of State.

2. City or certain town. In a city, or in a town which has more than one voting district, the ward clerk shall fill out the election return form provided by the Secretary of State, showing the number of votes cast for each candidate or question. He shall sign the return, have it attested by the warden and deliver it to the clerk forthwith. Within 24 hours after the polls are closed, the clerk shall tabulate the returns in duplicate on the election return provided by the Secretary of State, in the presence of the municipal officers. The clerk shall sign the return, have it attested by a majority of the municipal officers and send the duplicate copy forthwith to the Secretary of State.

3. Clerk to record. The clerk shall record the original election return within 3 days after election day.

1961, c. 360, § 1.

§ 962. Lost or not delivered

If an election return is not delivered to the Secretary of State within 7 days after an election, he shall send a messenger to the municipality concerned, and the clerk shall give him a certified copy of the return.

1961, c. 360, § 1.

SUBCHAPTER VII

MISCELLANEOUS

Sec.

991. Time for closing polls not to prevent voting.

992. Voting list becomes checklist.

993. Election expenses.

§ 991. Time for closing polls not to prevent voting

The warden shall give all voters present at the voting place at closing time the opportunity to vote. Any person who arrives at the voting place after the time for closing the polls has elapsed may not vote.

1961, c. 360, § 1.

§ 992. Voting list becomes checklist

As soon as the polls are closed, an election clerk shall note on each certified copy of the voting list whether it was an incoming or outgoing list. Each election clerk shall sign his name on the copy used by him at the election. The warden shall countersign each copy. The copies then become the checklist.

1961, c. 360, § 1.

§ 993. Election expenses

Each municipality shall pay for the expense it incurs in calling, holding and reporting the results of an election. The State shall pay for other election expenses incurred as a result of the performance by state officials of the duties prescribed for them by this Title.

1961, c. 360, § 1.