

MAINE STATE LEGISLATURE

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CHAPTER 27

DUTIES AND PROCEDURES AFTER ELECTION

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SUBCHAPTER I

TABULATION AND RESULTS

Sec.

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§ 1091. Reports of registration and enrollment

Within 10 days after a general election, the registrar shall send a report to the Secretary of State stating the number of voters in each voting district of the municipality at the close of the polls on election day. Within 10 days after a primary election, the registrar shall report the number of voters enrolled in each political party in each voting district of the municipality at the close of the polls on election day.

1961, c. 360, § 1; c. 408, § 6.

§ 1092. Secretary of State to tabulate and print results

Within 20 days after an election, the Secretary of State shall tabulate the election returns and submit the tabulation to the Governor and Council.

1. How tabulated. The Secretary of State shall tabulate all votes which appear by an election return to have been cast for a candidate, even though his name is misspelled, written with his initials, with wrong initials, or otherwise, on the return.

2. Correction of return. If it appears that an election return does not agree with the record of the vote at any voting place, he shall correct the tabulation by obtaining a certified copy of the record from the clerk.

3. Tabulation printed. The Secretary of State shall have copies of the tabulation printed and made available to the public.

1961, c. 360, § 1; 1963, c. 78, § 18.

§ 1093. Determination of election

The determination of an election or referendum question is governed by the following provisions:

1. Primary election. In a primary election, the person who receives a plurality of the votes cast for nomination to any office is nominated for that office, if the number equals or exceeds the number of signatures needed to place his name on the primary ballot by petition.

2. Other elections. In any other election, the person who receives a plurality of the votes cast for election to any office is elected to that office.

3. More than one vacancy. In any election if there is more than one vacancy in an office, as many persons are nominated or elected as there are vacancies to be filled in decreasing order of the plurality of votes received by them.

4. Referendum question. A referendum question is determined by majority vote.

1961, c. 360, § 1.

§ 1094. Hearing and review by Governor and Council

The Governor and Council shall review the tabulation of the vote, hear appeals and determine the result of referendum questions and the persons to whom the Governor shall issue certificates of election or notices of apparent election except where the final determination as to their election depends on the Federal or State Constitution.

1961, c. 360, § 1; c. 408, § 7.

§ 1095. Election certificate issued

Within a reasonable time after an election, the Governor shall issue an election certificate in accordance with Title 5, sec-

tion 84 or a notice of apparent election to each person elected to office according to the tabulation required by section 1092, or on appeal according to the determination of the Governor and Council.

1. Ineligible person. The Governor shall not issue an election certificate to a person who is ineligible for the office.

1961, c. 360, § 1.

SUBCHAPTER II

TIE VOTES

Sec.

1121. Tie defined.

1122. Procedure.

§ 1121. Tie defined

There is a tie vote when 2 or more persons receive an equal number of votes, which number would entitle each one to nomination or election except for the tie. There is a tie vote in a referendum when a question receives an equal number of affirmative and negative votes.

1961, c. 360, § 1.

§ 1122. Procedure

When there is a tie vote, the following provisions apply:

1. Primary election. In a primary election, the Secretary of State shall notify each person involved in the tie to be present at his office at a certain time. At that time, he shall select the nominee publicly by lot.

2. Other elections. In any other election, the Governor shall issue a proclamation declaring the tie and ordering a special election between the persons tied, as provided in section 1444.

A. Exception for presidential electors. If there is a tie vote for presidential electors, the Governor shall convene the Legislature forthwith by proclamation. The Legislature by joint ballot of the members assembled in convention shall determine which are elected.

B. Exception for certain other officials. This does not apply to the election of United States Senator, Representative

to Congress, Governor and members of the State Legislature which is governed by the Federal or State Constitutions.

3. Referendum. In a referendum other than on a liquor local option question, the negative vote prevails.

1961, c. 360, § 1.

SUBCHAPTER III

INSPECTION AND RECOUNT

Sec.

1151. Candidate's inspection of ballot and checklist.

1152. Recount.

1153. Appeal to Governor and Council.

1154. Referendum ballots.

§ 1151. Candidate's inspection of ballot and checklist

On the written application of a candidate in any election within 5 days after election day, the clerk shall permit him or his counsel to inspect the ballots and checklists under proper protective regulations.

1. Notice of inspection. On receipt of the applications, the clerk shall send written notice of the inspection to the candidates for the office in question, stating the time and place of inspection.

2. Time of inspection. The inspection must be held as soon as reasonably possible at such a time and place as to afford the candidates a reasonable opportunity to be present.

3. Packages resealed and marked. After the inspection, the clerk shall reseal the packages of ballots and the checklists, and shall note the fact and date of inspection on them.

1961, c. 360, § 1.

§ 1152. Recount

On the written application of a losing candidate in any election not later than 10 days after the tabulation of the vote is submitted to the Governor and Council, the Secretary of State shall permit him or his counsel to recount the ballots under proper protective regulations, subject to the following provisions:

1. Vote shows proper percentage of difference. The percentage of difference between the combined vote received by the

losing candidate and the nearest winning candidate, as shown by the official tabulation must meet the following requirements:

A. If the combined vote is 1,000, or less, the percentage of difference between the vote must be 10%, or less, of the total vote.

B. If the combined vote is 1,001 to 5,000, the percentage of difference between the vote must be 5%, or less, of the total vote.

C. If the combined vote is 5,001 to 10,000, the percentage of difference between the vote must be 4%, or less, of the total vote.

D. If the combined vote is 10,001 to 50,000, the percentage of difference between the vote must be 3%, or less, of the total vote.

E. If the combined vote is 50,001 to 100,000, the percentage of difference between the vote must be 1%, or less, of the total vote.

F. If the combined vote is 100,001, or over, the percentage of difference between the vote must be $\frac{1}{2}$ of 1%, or less, of the total vote.

1963, c. 406, § 1.

2. Recount on deposit. A losing candidate may request a recount upon making a deposit with the Secretary of State in the following amounts:

A. If the combined vote is 1,000, or less, and the percentage of difference between the vote for the 2 candidates is more than 10%, \$50.

B. If the combined vote is 1,001 to 5,000, and the percentage of difference between the vote for the 2 candidates is more than 5%, \$75.

C. If the combined vote is 5,001 to 10,000, and the percentage of difference between the vote for the 2 candidates is more than 4%, \$100.

D. If the combined vote is 10,001 to 50,000, and the percentage of difference between the vote for the 2 candidates is more than 3%, \$125.

E. If the combined vote is 50,001 to 100,000, and the percentage of difference between the vote for the 2 candidates is more than 1%, \$250.

F. If the combined vote is 100,001, or over, and the percentage of difference between the vote for the 2 candidates is more than $\frac{1}{2}$ of 1%, \$500.

The deposit made by the candidate requesting the recount shall be forfeited to the State in the event that the recount fails to change the result of the election. If the recount reverses the election, the deposit shall be returned to the candidate requesting the recount.

1963, c. 406, § 1.

3. Ballots and check lists recalled. On receipt of the application, the Secretary of State shall recall all the ballots and check lists from the clerk of each municipality concerned. The clerk shall return or release them to him as soon as any pending ballot inspection has been made.

1963, c. 406, § 1.

4. Notice of recount. The Secretary of State shall send written notice of the recount to the candidates for the office in question, stating the time and place of the recount.

1963, c. 406, § 1.

5. Time of recount. The recount must be held as soon as reasonably possible at such a time and place as to afford the candidates a reasonable opportunity to be present.

6. Disputed ballots segregated. At the recount, the Secretary of State shall segregate any disputed ballots.

7. Mistake in ballot count. If it is found that there was a mistake made in counting the ballots on election day the Secretary of State shall submit a corrected tabulation to the Governor and Council.

8. Appeal to Governor and Council. If there are enough disputed ballots to affect the result of the election, the interested candidate may appeal to the Governor and Council for a determination of the election on written application to the Secretary of State at the close of the recount.

A. Exception. This subsection does not apply where final determination of the election of a candidate is governed by the State or Federal Constitution.

9. Package resealed and marked. After the recount, the Secretary of State shall reseat the packages of ballots and the check lists, and shall note the fact and date of the recount on

them. If there is an appeal to determine the validity of the disputed ballots, the Secretary of State shall keep them until needed by the Governor and Council.

10. Withdrawal from recount. A losing candidate who requests and receives a recount may withdraw from the recount at any time while the recount shows him to be the loser. If during the recount, the losing candidate shall overtake and pass the winning candidate, the losing candidate shall not be permitted to withdraw and the recount shall be completed. (1963, c. 406, § 2.)

1961, c. 360, § 1; 1963, c. 78, § 19; c. 406.

§ 1153. Appeal to Governor and Council

On the written application of a candidate as provided in section 1152, the Governor and Council shall hold a hearing on the appeal.

1. Notice of appeal. On receipt of the application, the Secretary of State shall send written notice of the appeal to the candidates for the office in question, stating the time and place of the hearing on the appeal.

2. Time of appeal. The hearing on the appeal must be held as soon as reasonably possible at such a time and place as to afford the candidates a reasonable opportunity to be present.

3. Determination. At the hearing, the Governor and Council shall examine the disputed ballots, hear the arguments of each candidate or his counsel and determine who was elected. In making this determination, they may accept as facts any relevant conclusions agreed upon by the nominees.

1961, c. 360, § 1.

§ 1154. Referendum ballots

Any resident of the municipality affected may inspect referendum ballots, have them recounted and appeal those disputed to the Governor and Council as provided in sections 1151 to 1153. Instead of the notice requirements of those sections, the person to whom the application is directed shall publish a notice of the details of the inspection, recount or hearing on appeal in a newspaper having general circulation in the municipalities concerned, at least 3 days prior to it.

1961, c. 360, § 1.

SUBCHAPTER IV

PRESIDENTIAL ELECTORS

Sec.

- 1181. Election.
- 1182. Duties of Governor.
- 1183. Meeting in convention.
- 1184. Convention duties.
- 1185. Compensation of electors and employees.

§ 1181. Election

In a presidential election year, the presidential electors shall be chosen at the general election.

1. **Vote for presidential candidate construed.** A vote for the candidates of any political party for President and Vice-President is a vote for each nominee of the same political party for presidential elector.

1961, c. 360, § 1.

§ 1182. Duties of Governor

As soon as possible after the presidential electors are chosen, the Governor shall send a certificate of the determination of the electors to the Administrator of General Services under the State Seal. The certificate shall state the name of the electors, and the number of votes which each received. The Governor shall deliver 6 original duplicates of the same certificate under the State's Seal to the electors on or before the first Monday after the 2nd Wednesday of December, following their election.

1961, c. 360, § 1.

§ 1183. Meeting in convention

The presidential electors shall convene in the Senate Chamber in Augusta on the first Monday after the 2nd Wednesday of December at 2 p.m. following their election. If any electors are not present, the electors present shall fill the vacancy by majority vote.

1961, c. 360, § 1.

§ 1184. Convention duties

The duties of the presidential electors in convention are as follows:

1. Separate ballots. When convened as required by section 1183, they shall each cast separate ballots for President and Vice-President, one of whom must not be a resident of this State.

2. Certificate prepared and sent. They shall make and subscribe to 6 certificates containing the number of votes cast separately for President and Vice-President. They shall attach one of the lists of electors furnished them by the Governor to each certificate. They shall seal each certificate and attached list in an envelope stating that a certificate of the votes of this State for President and Vice-President is contained inside.

3. Envelope sent immediately. They shall send one envelope immediately by registered mail to the President of the Senate of the United States, Washington, D.C. They shall deliver 2 envelopes immediately to the Secretary of State of this State who shall hold one of them subject to the order of the President of the Senate of the United States and shall keep the other in his office as a public record for one year. They shall deliver one envelope forthwith by registered mail to the judge of the United States District Court for the district of Maine.

4. Envelopes sent next day. On the following day, they shall send 2 envelopes by registered mail to the Administrator of General Services of the United States, Washington, D.C.

1961, c. 360, § 1.

§ 1185. Compensation of electors and employees

The presidential electors shall be paid \$10 per day for each day actually and necessarily employed in the performance of their duties, and necessary expenses, including travel expenses at the same rate as that paid to members of the Legislature. The presidential electors may hire necessary clerical employees who shall be paid a reasonable compensation established by the electors.

1961, c. 360, § 1.

SUBCHAPTER V

MISCELLANEOUS

Sec.

- 1211. Ballots and checklists available for inspection.
- 1212. Determination of title to office where dispute exists.
- 1213. Commencement of term of office.

§ 1211. Ballots and checklists available for inspection

On request, the clerk of any municipality and the Secretary of State shall produce any ballots or checklists in his custody before the Governor and Council, either branch of the Legislature, any legislative committee or any court of competent jurisdiction.

1961, c. 360, § 1.

§ 1212. Determination of title to office where dispute exists

A person who claims to have been elected to any county office may proceed against another who claims title to the office, as follows:

1. Procedure. He shall bring a complaint in the Superior Court within 15 days after the certificate of election is issued. The complaint must allege the facts upon which he relies in maintaining his action. The action must be brought in the county where the defendant resides. The court shall hear and decide the case as soon as reasonably possible.

2. Appeal procedure. The party against whom the judgment is rendered may appeal to the Supreme Judicial Court within 10 days after entry of the judgment. The appellant shall file the required number of copies of the record with the clerk of courts within 20 days after filing the notice of appeal. Within 30 days after the appeal is taken, the parties shall file briefs with the clerk of courts. As soon as the records and briefs have been filed, the court shall consider the case forthwith, and shall hand down its decision as soon as reasonably possible. Final judgment shall be entered accordingly.

3. Court to issue order. As soon as final judgment has been rendered, the Superior Court, on request of the prevailing party, shall issue an order to the party unlawfully claiming or holding the office, commanding him to surrender it forthwith to the per-

son who has been adjudged lawfully entitled to it, together with all the records and property connected with it. The prevailing party may enter upon the duties of the office as soon as his term begins.

1961, c. 417, § 4.

4. Costs. The court shall allow costs to the prevailing party as justice may require.

1961, c. 360, § 1; c. 417, § 4.

§ 1213. Commencement of term of office

County officials elected at the general election take office on January 1st directly following election day. The terms of other officials commence on the day provided in the Federal or State Constitutions.

1961, c. 360, § 1.