

MAINE STATE LEGISLATURE

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ELECTIONS - 1976
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(June)

STATE OF MAINE

INSTRUCTIONS TO ELECTION

OFFICIALS



IMPORTANT NOTICE FOR 1976 ELECTIONS

PRIMARY ELECTION

Candidate Ballots — The Democratic Ballots are white this year and the Republican Ballots are yellow except municipalities with more than one single member district of the House of Representatives.

The law provides that the party casting the highest vote for Governor at the last preceding General Election shall have the primary ballots printed on white paper, the party casting the next highest shall be on yellow paper.

Referendum Ballots — Pink

Liquor Ballots — Green

GENERAL ELECTION

Candidate Ballots — White except municipalities with more than one single member district of the House of Representatives.

Referendum and Constitutional Amendment Ballots — Pink

Liquor Ballots — Green

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FOREWORD

In the following pages you will find, in abbreviated form, the basic provisions of the Maine Election Laws that pertain to elections.

This convenient, pocket-sized booklet has been designed to assist those persons who are responsible for the supervision of our statewide elections. While the booklet consists of most of the election information that you will need, *it does not contain* the Maine Election Laws in their entirety. For this reason it would be best to refer to the complete set of Election Laws whenever any serious problems arise. If you do not have an up to date copy of the Election Laws, please contact our office (Telephone — 289-3503) and we will forward one to you immediately.

Please feel free to contact us at anytime with either your questions or suggestions for improving our service to you.

MARKHAM L. GARTLEY
Secretary of State

1976

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INSTRUCTIONS TO ELECTION OFFICIALS

In accordance with the Election Laws—Title 21, M.R.S.A. 1964, as amended.

DEFINITION OF LEGAL VOTERS AND VOTING REQUIREMENTS

A person who meets the following requirements may vote in any election in the municipality in which his residence is established.

He must be a citizen of the United States.

He must be at least 18 years of age.

He shall have established a residence in this State in the municipality in which he resides.

He must be registered to vote in the municipality.

In order to vote at a caucus, convention or primary election, he must be enrolled in a party in the municipality. (§ 241)

A person under guardianship for reasons of mental illness may not vote at any election.

RESIDENT REQUIREMENTS

The residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return.

A change of residence is made only by the act of removal, joined with the intent to remain in another place. There can only be one residence.

A person does not lose his residence if he leaves his home and goes to another country, state or place in this State for temporary purposes only with the intent of returning.

A person shall not be held to have gained or lost a residence solely by reason of his presence or absence while employed in the service of the United States or of this State, or while a student in any institution of learning, or while kept in any institution or other asylum at public expense, or while confined in any public prison, or while residing upon any Indian or military reservation.

A person loses his residence in this State if he

votes in another state's election, either in person or by absentee ballot, and will not be eligible to vote in this State until he again qualifies under section 241.

The place where a person's family resides is presumed to be his place of residence, but a person may acquire a separate residence if he takes another abode with the intention of remaining there.

A married woman may be deemed to have a residence separate from that of her husband for the purposes of voting, holding office or performing jury duty. Her residence for those purposes is determined as if she were single.

A person who becomes 18 years of age while residing on federal property as a patient at or an employee of a federal agency, or while in the Armed Forces, is deemed to have gained a voting residence in the municipality in which he resided at the time he became such a patient, employee or serviceman.

A person who has gained a voting residence in a municipality retains it, if he so desires, when he becomes a patient at or an employee of a federal agency where he is required to reside on land ceded to the Federal Government by the State. This rule applies to a member of the Armed Forces or the National Guard who is required to be in a place other than that in which he has gained a voting residence.

A spouse of a member of the Armed Forces on active duty may have the same residence for voting purposes as his or her spouse. A member of the Armed Forces on active duty, whose spouse has a place of residence in this State, may establish a residence in the place of residence of the spouse by filing with the registrar an affidavit declaring an intention to reside in that place upon severance from the Armed Forces.

A person residing on federal property, except as stated in subsection 4, shall be eligible to register and vote in the voting district in which the federal property is located. (§ 242, sub-§ 1-11)

REGISTRATION OF VOTERS

A person may register as a voter by appearing in

person before the registrar, the board of registration, a justice of the peace or a notary public and by proving that he is qualified as provided by Sec. 241. (§§ 102 and 102-A)

In a city or a town which has a board of registration, the clerk shall accept applications for registration and enrollment when the board is not in session, subject to the subsequent approval of the application by the board. The same qualifications shall apply as stated above. If the applicant qualifies, the clerk shall write "OK" and his initials on the application and file it with the board. Final action for acceptance must be taken by the board. (§ 71)

A board of registration may only act by unanimous or majority action. (§ 43, sub-§ 4)

Physically Disabled Persons

The requirement of personal appearance applies in all cities and towns, regardless of size, except in the case of any person who is physically unable to appear in person and who lives within 20 miles of the office of the registrar or board of registration. The physically disabled applicant must make a written request to the registrar, accompanied by a written statement from his attending physician certifying the physical inability to appear personally.

In such case, and upon receipt of the request and statement, the registrar shall visit the applicant and otherwise follow the procedure for registration. (§ 72)

In cities, the chairman of the board of registration may designate himself or another member of the board to accept the application for registration from a person who is physically unable to appear before the board in person (§ 43) (It should be noted that any duties incumbent upon a registrar apply equally to a board of registration.)

PREPARATION OF THE VOTING LIST

The registrar has the exclusive power to prepare and revise the voting list. He shall prepare a printed or typewritten list, alphabetically by surname, of all the voters of the municipality. He shall add the street

address of each voter beside his name and mailing address and proper zip code number. In a municipality which has voting districts, he shall make a separate list for each district. It is his duty to not only prepare the voting list, but to keep that list current at all times by adding the names of new voters or by removing the names of those who have died, moved from the municipality more than 3 months previously with an apparent intention of abandoning their residence therein, or become disqualified to vote. **When the registrar employs the facilities of the United States Postal Service to determine which voters have moved from the municipality and when the United States Postal Service reports to the registrar that a voter has moved from the address shown on the voting list without having notified the United States Postal Service of a forwarding address, the registrar shall remove the name of such voter from the voting list and shall not be required to send, or to attempt to send, to such voter a notice in accordance with section 172.** (§ 171)

If any person is aggrieved by the decision of a registrar of voters, he may appeal in writing to the municipal officers of a municipality by filing a complaint as provided in section 173.

§ 761. Posting of

The registrar shall post a certified copy of the voting list for each voting district at the usual voting place in that district prior to the opening of the polls on election day.

The clerk shall, upon request of the registrar, furnish the registrar with a list of deceased voters. (§ 171)

The registrar shall keep a record of the names added to or removed from the voting list and the date when such action was taken. (§ 171)

The registrar shall send a notice by certified mail with return receipt requested to the last known place of residence of each living person whose name he or she has removed from the voting list. Upon receipt of such notification the voter shall reply to the registrar within 60 days stating his reasons why his name should not be removed from the voting list. If this

notification is returned unclaimed, such return shall be deemed sufficient notice to make the removal of such name confirmed. Such return receipts and replies by the voter to the registrar shall be kept on file by the registrar and available for inspection for 2 years.

SCHEDULE OF OFFICE HOURS FOR REGISTRAR AND BOARDS OF REGISTRATION

The municipal officers shall establish reasonable office hours for the registrar consistent with the requirements of a municipality. (§ 41)

The registrar of voters or board of registration will hold office hours while the polls are open to correct any error in or change a name or address on the voting list; to accept the registration of any person eligible to vote and to accept new enrollments. (§ 672)

The registrar shall accept registrations at a special election according to the time schedule prescribed by section 632.

§ 632—Special elections

The registrar shall accept registrations at a special election according to the time schedule prescribed by this section.

1. Municipality of 2,500 or less. In a municipality of 2,500 or less population, he shall accept registrations on election day, but not on the business day next prior to it.

2. Municipality of more than 2,500. In a municipality of more than 2,500 population, the registrar shall accept registrations during the time prescribed by the municipal officers on the 2nd and 3rd business days next prior to election day. He shall accept registrations on election day but not on the business day next prior to it.

§ 638, sub-§ 2, ¶ A, additional.

A. In a municipality which has more than one voting district, if a voter has changed his address and votes absentee after the close of registration,

he must send a written notice of his new address along with his absentee application notifying the board of registration of his new address. A certificate containing his name and new address shall be directed to the warden of his new voting place to be attached to the incoming voting list on election day.

ELECTION OFFICIALS

§ 531. Wardens and ward clerks

In a city, the election, term of office, compensation and partial duties of wardens and ward clerks are determined by the city charter. Additional duties are prescribed by this Title. In a town, unless otherwise determined by charter, the clerk of the municipality shall be the supervisor of all elections, shall, with approval of the municipal officers, appoint a warden and may appoint one or more deputy wardens to assist in the duties on election day. The clerk may designate himself or herself as warden or deputy warden but neither the warden nor any deputy warden shall be an officer of a municipal committee of a political party. Deputy wardens shall perform the duties of the warden when necessary and shall not be utilized to replace election clerks prescribed by this Title. The warden and deputy wardens shall be registered voters of the municipality. The clerk may appoint special deputies to help perform his duties on election day. The clerk, warden and deputies shall be paid a reasonable compensation as determined by the municipal officers.

§ 531-A. Duties and vacancies—ward clerk

In the absence or incapacity of the warden, the ward clerk may perform the duties of the warden. The vacancy of ward clerk shall be filled by the appointment of an election clerk of the same political party as the ward clerk to serve as ward clerk pro tem and such appointment shall be made by the warden.

§ 532. Election clerks

Election clerks are governed by the following provisions:

1. Appointment. In May of general election year, the municipal officers of each municipality shall

appoint as election clerks for each voting place an equal number of persons nominated by the municipal committees of the 2 major parties. At the request of the municipal committee of any minor party represented on the official ballot used at the last general election, the municipal officers shall appoint one election clerk for each voting place nominated by that committee. The municipal officers shall designate an equal number of election clerks from each major party to issue ballots to incoming voters and receive ballots of outgoing voters.

2. Number appointed. The municipal officers shall appoint 4 election clerks for each voting place in each municipality who must be residents of the electoral divisions in which they are to serve:

A. Exception. They shall appoint 2 election clerks for each voting place in a municipality of 300 or less population, in the island wards of the City of Portland, the island district of the Town of Cumberland, and the districts of the Town of Cranberry Isles.

B. Additional clerks. They may appoint additional election clerks, if necessary, who are nominated as provided in subsection 1.

C. Alternate clerks. They shall appoint alternate election clerks who are nominated as provided in subsection 1 and who may be called into service by the warden, as needed, to fill a vacancy on election day.

In the event the municipal committee shall fail to nominate a sufficient number of election clerks to perform the duties prescribed by this Title, the clerk or municipal officers shall appoint the necessary number to fill the vacancy on election day.

D. Counters. The clerk may appoint a sufficient number of election clerks, an equal number from each political party, to serve as counters at the close of polls who shall be paid a reasonable compensation as determined by the municipal officers.

3. Sworn to office. Before assuming the duties of office, an election clerk shall be sworn by the

warden or clerk, and the fact of his having been sworn shall be recorded by the clerk.

4. Term of office. An election clerk holds office for 2 years from the date of his appointment, and until his successor is appointed and qualified.

A. Exception. An election clerk who is appointed to represent a minor party holds office only 2 years from the date of his appointment.

5. Duties. Election clerks shall attend the voting places for which they were appointed, at each election. They shall assist the warden in counting the ballots and in performing other duties prescribed by him. They shall be in attendance during voting hours on election day.

A. Compensation. The election clerks shall be paid a reasonable compensation as determined by the municipal officers.

6. Application of city charter. A city charter which provides for the election of 2 persons to assist the warden in receiving, sorting and counting ballots is not affected by this section. The persons elected under authority of the charter are deemed to be election clerks and each must represent a different major party.

§ 533. Persons ineligible to serve

The following persons may not serve as election officials:

1. Certain employees. An employee of a party or candidate;

2. Direct pecuniary interest. A person having a direct pecuniary interest in the result of a referendum question;

3. Candidate or spouse, his mother, father, children, sister or brother. A candidate or his spouse or his mother, father, children, sister or brother. This does not apply unless the relatives mentioned are election officials in the electoral division from which the candidate seeks election.

A. Exception. This does not apply to a candidate for warden or ward clerk or his spouse, his mother, father, children, sister or brother.

B. Limitation. This subsection shall not apply to municipalities with a population of less than 500.

OPENING AND CLOSING OF POLLS

The municipal officers of each municipality shall determine the time of opening the polls, which must be opened not earlier than 6 a.m. and not later than 10 a.m. on election day. The polls must be closed at 8 p.m. on election day. The polls must remain open in each municipality until 8 p.m. unless each registered voter of the municipality has voted.

In any municipality, the municipal officers may permit the polls to remain open until 9 p.m. on election day in a voting place which uses voting machines. (§ 741)

DIVISION OF TOWNS AND WARDS

The municipal officers may divide a town or ward into convenient voting districts after public notice and hearing held at least 60 days before any election. (§ 1572, sub-§ 1)

Towns and wards of cities may be divided into voting districts only by following the procedure contained in Sec. 1572.

Voting districts, once established, may be consolidated into a lesser number of districts by following the same procedure. (§ 1572)

VOTING BOOTHS, ARRANGEMENT OF VOTING PLACE AND GUARDRAIL AREA

The voting place must be arranged so that the ballot box is within view of persons present. Each voting booth must be arranged so that those outside the guardrail may see who enters and leaves it. (§ 602)

A guardrail must be constructed so that only those inside it can approach within 6 feet of the ballot box and the voting booths. (§ 602)

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

An American flag must be displayed in each voting place at any election. (§ 602)

Municipalities must provide a polling place of sufficient size to allow at least one worker from each political party to remain outside the guardrail for the purpose of checking voters, challenging voters or viewing. Upon written complaint to the Secretary of State by the chairman of either state committee no later than 30 days prior to an election, the Secretary of State shall authorize an inspection of the polling place deemed to be too small to allow party workers access. If the Secretary of State finds a polling place to be too small to allow party workers access, he shall instruct the municipal officers to change the location of the polling place to one of a suitable size. The municipal officers must advertise at least 3 times the change of the polling place in the daily or weekly newspaper, or both, that covers the area. (§ 602, sub-§ 4)

The municipal officers of each municipality shall provide at least one voting booth for each 200 voters qualified to vote at each voting place. Those municipalities using voting machines shall follow section 1031, subsection 4. (§ 603)

In municipalities which have voting machines, the municipal officers shall additionally provide sufficient voting booths and paper ballots to insure adequate voting facilities. (§ 603)

Each booth must have within it a pencil and a shelf on which a voter may mark his ballot conveniently. It must have a wooden swinging door or a drop curtain arranged so that the top of it is not less than 6 feet from the floor, so that the voter is screened from the observation of others. The entrance to the booth must be closed while the voter is inside. (§ 603)

§ 604. Alternative accessible voting places for the physically handicapped and the elderly

1. Definitions. As used in this section, the following words and phrases shall have the following meanings:

A. Accessible voting place. "Accessible voting

place” means a voting place in a building which has at least one entrance that provides access, by ramp or otherwise, to physically handicapped or elderly voters and in which the voting place is located on the first floor or is accessible by elevator or in a building which meets the standards of construction described in Title 25, chapter 331.

B. Elderly. “Elderly” means one experiencing the normal process of aging, specifically at age 60 or over.

C. Physical handicap. “Physical handicap” means an impairment which confines an individual to a wheelchair; or causes an individual to walk with difficulty; or affects the sight or hearing to the extent that an individual functioning in public areas is insecure or exposed to danger; or causes faulty coordination or reduces mobility, flexibility, coordination and perceptiveness to the extent that special facilities are needed to provide for the safety of that individual.

2. Alternative voting places. In municipalities in which one or more voting places are inaccessible to elderly and handicapped voters and in which the office of the clerk is in a building which is accessible as defined in subsection 1, paragraph A, the municipal officers shall designate the office of the clerk as an alternative voting place for elderly and physically handicapped voters who reside in voting districts which do not have accessible voting places. In municipalities in which one or more voting places and the office of the clerk are inaccessible to elderly and physically handicapped voters, the municipal officers shall designate an accessible voting place, if available, as centrally located as possible, as the alternative voting place for elderly and physically handicapped voters who reside in voting districts which do not have accessible voting places. An elderly or physically handicapped voter who wishes to vote at the office of the clerk or at an alternative voting place must notify the clerk of the municipality at least 10 days prior to the date of any election. The clerk shall keep a list of the persons who give such notice.

When an elderly or physically handicapped voter votes at the office of the clerk or at an alternative

voting place, his vote shall be by absentee ballot and the method of voting shall be the same as in section 1254. If an alternative voting place has been designated, the clerk shall furnish a reasonable number of absentee ballots and return envelopes to the warden. When the clerk or the warden receives such a ballot, he shall follow, as far as applicable, the same procedure prescribed in chapter 29 for the clerk to follow in handling absentee ballots.

3. Alternative paper ballots. Paper ballots for use by voters who are physically unable to operate a voting machine shall be provided at all voting places which are equipped with voting machines.

The Clerk, election officials and not more than 2 voters in excess of the number of voting booths may be within the guardrail, except peace officers permitted therein to enforce the law. 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.

Party workers and others must 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. (§ 891)

DELIVERY AND RECEIPT OF BALLOTS AND VOTING LISTS

The registrar shall deliver the necessary number of certified copies of the voting list to the clerk by 5 p.m. on the business day next prior to election day. The clerk shall give him a receipt for them. (§ 762)

Before the opening of the polls, the clerk shall deliver the election materials marked for each voting place, together with the copies of the voting lists supplied by the registrar, to the warden at that voting place. The warden shall give the clerk a receipt for them. (§ 801)

PROCEDURE FOR OPENING OF POLLS

Election materials distributed and posted.

At any time after receipt thereof and prior to the opening of the polls, the clerk may open the packages

or boxes of election materials, break the seals on the packages not marked "ballots," use the materials for instructional purposes, and then the clerk or his designated agents shall post an adequate number of instruction posters and specimen ballots in the voting room outside the guardrail. At the opening of the polls, the warden shall break the seals on the packages containing the ballots, and distribute the ballots to the incoming election clerks. (§ 801)

The warden shall open the official ballot box, examine it and show publicly that it is empty, following which he shall immediately lock the box and deliver the key to the 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. (§ 801)

VOTING PROCEDURE

A voter who wishes to vote must state his name and, in a municipality which has voting districts, his street address to an incoming election clerk who shall announce the name in a loud clear voice. The incoming election clerk in charge of the voting lists shall place a check mark on the list beside the voter's name and allow him to enter the area within the guardrail. The incoming election clerk in charge of the ballots shall give the voter one ballot of each kind to which he is entitled, whereupon 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. (§ 861)

No ballot, marked or unmarked, shall be left in the voting booth by the voter.

After leaving 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, the clerk shall require the voter to deposit in the ballot box all ballots, marked or unmarked, issued to the voter under subsection 3, and the voter shall then leave the area within the guardrail.

He may not leave the area within the guardrail until he has deposited his ballot and, once having left the area within the guardrail, he may not reenter. (§ 861)

ASSISTANCE IN VOTING

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 by the following procedure:

The voter shall declare his disability to the warden, who shall then designate 2 election clerks representing different political parties to assist the voter.

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.

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

A voter who is blind may obtain assistance in marking his ballot from 2 election officers not of the same political faith, except in the case of primary elections, or from a father, mother, brother, sister, husband, wife or child, as he may select, providing that the person giving the assistance is of voting age and not a candidate for election. (§ 862)

MARKING BALLOT AT 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: The voter shall place the mark in the square at the left and close to each candidate for nomination for whom he wishes to vote.

If he wishes to vote for a person whose name is not on the ballot, he shall write the name and municipality of residence or paste a sticker containing the name and municipality of residence in the blank space provided at the end of the list of candidates for

nomination to the office in question, with the surname first or last. He shall then place the mark in the square at the left of it. (§ 921) (See also “WRITE-IN NOMINEE” section following.)

WRITE-IN NOMINEE

If he wishes to vote for a person whose name is not on the ballot, he shall write the name and municipality of residence in the blank space provided at the end of the list of nominees for the office in question, with the surname first or last. He shall then place the mark in the square at the left of it. (§ 922)

NOTE: In voting for a write-in candidate, stickers containing the name and residence are permissible in a primary election but may not be used in a general election. (§ § 921 and 922)

MARKING REFERENDUM BALLOT

In voting on a referendum question, the voter shall place the mark in the square of his choice at the right of the question. (§ 922, sub-§ 3)

MARKING BALLOT AT GENERAL ELECTION

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

1. **Individual square method.** He shall make a cross or check mark in the square at the left and close to each nominee for whom he wishes to vote, regardless of political designation, but must follow directions as to the number of nominees to be elected to each office.

2. **Write-in vote.** If he wishes to vote for a person whose name is not on the ballot, he shall write the name and municipality of residence in the blank space provided at the end of the list of nominees for the office in question with the surname first or last. He shall then place the mark in the square at the left of it.

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

3. **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. (§ 922, sub-§ § 1, 2)

CHALLENGED, SPOILED, DEFECTIVE AND VOID BALLOTS

A voter of any municipality may **challenge** the right of another to vote at any election in that municipality. The challenge must be made to the warden and the challenger shall state his name, the name of the voter challenged and the reason for the challenge. 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. The warden shall then 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. The challenged voter shall then proceed to vote in the usual way, using the marked ballot. (§ 863)

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. In such case its validity must be determined by the Governor and Council, subject to the right of appeal provided in Sec. 1212, unless otherwise provided by the State or Federal Constitution.

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. 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. (§ 923)

If a replacement ballot was issued to the voter, the election clerk shall so indicate on the outside of the spoiled ballot. (§ 923, sub-§ 1)

A ballot shall be deemed **defective** if a voter marks more names for an office than there are vacancies to be filled, or marks his ballot in such a way as to make

his choice impossible to determine. Such defective ballots must not be counted for the office, candidate, or question affected by the defect.

A ballot shall be deemed to be void which is not prepared in accordance with the requirements of law or on which a voter places a distinguishing mark indicating the apparent intent of the voter to make his ballot distinguishable. Void ballots must not be counted. (§ 925)

§ 925-A Disqualification of ballots

Any person engaged at any election as a ballot clerk, assistant ballot clerk or any person employed as a counter of ballots shall use pens or pencils containing only red ink or red lead.

ABSENTEE VOTING

“Absentee” voter means a person who is unable to cast his ballot in the municipality in which he is registered to vote for one of the following reasons: Absence from the municipality during the time the polls are open on election day; physical incapacity not adversely affecting his soundness of mind; religious belief which prohibits his doing so; and unreasonable distance from the polls, if he is a resident of a township. (§ 1)

ABSENTEE VOTING BY MEMBERS OF THE ARMED FORCES

“Members of the armed forces” include the Army, Navy, Air Force, Marine Corps, Coast Guard, their spouses and dependents;

Members of the Merchant Marine of the U.S., their spouses and dependents, except those employed in the inland waterways;

Civilian employees of the U.S. serving outside the territorial limits of the several states and the District of Columbia (whether or not paid from appropriated federal funds), their spouses and dependents when accompanying them;

Members of religious groups and welfare agencies serving with or accompanying the armed forces and

their spouses and dependents. (§1, sub-§ 16)

Registration and Enrollment

A member of the armed forces may register at any time as follows: He may complete and file the federal postcard application form with the registrar; or he may complete and file with the registrar an application provided by the municipality stating the information necessary to show his qualifications; or a blood relative, former guardian or spouse may complete and file with the registrar the application mentioned above. (§ 1302)

On receipt of the application, the registrar shall register the applicant, unless it appears he is not qualified. If he is not, the registrar shall advise him the reason why. The registrar shall place the letter “S” on the voting list beside the name of each member of the armed forces registered under this law. (§ 1303)

The registrar may add the name of a member of the armed forces to the voting list at any time. (§ 1305)

A member of the armed forces who is registered to vote may enroll by designating his party preference over his signature. (§ 1304)

Absentee Ballot and Application

If a member of the armed forces desires an absentee ballot a written request from such member or from his spouse, a blood relative or a former guardian is sufficient. (§ 1306)

On receipt of an absentee ballot application, federal postcard application or a written request as described above, the clerk shall mail the ballot forthwith to the member. The Secretary of State shall provide a ballot and an envelope which will move free of postage under federal law. The member shall mark his ballot in such a way as to make it impossible for anyone to see how he voted. He shall then seal the ballot in its return envelope, write his voting residence, including street address, in the upper left hand corner of the return envelope, sign his name and have his signature certified as that of the voter. His signature may be certified by any commissioned officer, non-commissioned officer not below the rank

of sergeant, or petty officer in the armed forces, or by any diplomatic or consular official of the United States. He shall then mail the envelope to the clerk of his municipality. (§ 1307)

On receipt of a return envelope apparently containing an absentee ballot, the clerk shall note the date and time of delivery on it and deliver it to the registrar. The registrar shall certify on the envelope whether the person whose name appears as sender is registered in the municipality. He shall then return the envelope to the clerk. (§ 1308)

The clerk shall accept all absentee ballots delivered to him before 8 p.m. on election day. (§ 1309)

On election day before the polls are closed, the clerk shall deliver the envelopes to the warden of the voting district in which the voter is registered. If there is more than one voting district, he shall also deliver a list of the names, addresses, and districts of the voters as shown on the return envelopes. (§ 1310)

An absentee ballot cast by a member of the armed forces may not be rejected for any immaterial irregularity in completing the application for the ballot or its return envelope. (§ 1311)

ABSENTEE VOTING BY CIVILIANS

On request, the clerk shall furnish a reasonable number of ballot applications to any person. On receipt of a completed application or a request for an absentee ballot signed by the applicant, the clerk shall send or deliver an absentee ballot and return envelope forthwith to him or to a third person designated in the application or request. He shall also include a ballot application to be completed by the person who signed only a written request.

The clerk shall keep a list of the persons to whom he furnishes absentee ballots until after election day, or the clerk shall file the applications and requests in alphabetical order. The clerk shall keep a list of the persons who vote in the clerk's office pursuant to subsection 5. (§ 1253, sub-§ 3)

A person who wishes to vote by absentee ballot because he will not be present in the municipality or

able to vote in person at the voting place on election day may, without completing an application, vote by absentee ballot before the clerk or deputy clerk of the municipality in the clerk's office during regular business hours. The method of voting shall otherwise be as prescribed in this chapter. (§ 1253, sub-§ 5)

As soon as reasonably possible the clerk shall deliver the completed application to the registrar. If the applicant is registered, the registrar shall so certify on the application. If not, the registrar shall write "Not registered" upon the face of the application and sign his name. He shall return all applications to the clerk forthwith. The clerk shall type or write in ink the name of the person for whom the absentee ballot is intended in the upper left hand section of all return envelopes. **Upon receipt of a duplicate application, the clerk shall follow the same procedure, but the first ballot returned shall be the ballot counted.** (§ 1253)

PROCEDURE ON RECEIVING AND COUNTING ABSENTEE BALLOTS

In order to be valid, an absentee ballot must be delivered to the **municipal** clerk before 8 p.m. on election day. (§ 1256)

An absentee ballot received by the clerk after the deadline must be kept by the clerk unopened. He shall write "Received After Deadline" on it and keep it segregated from the other ballots, unopened.

When the clerk receives a return envelope, apparently containing an absentee ballot, he shall observe the following procedure: Note the date and time of delivery on each return envelope; compare the signature of the voter on the application with that on the corresponding return envelope; examine the affidavit on the return envelope. If the signatures appear to have been made by the same person and if the affidavit is properly completed, he shall write "OK" and his initials on the return envelope. Otherwise he shall note any discrepancy on the envelope. He shall attach each application to the corresponding envelope but shall not open any return envelope.

The clerk shall prepare in duplicate lists by districts

of the names and addresses of the voters as shown on the return envelopes; he shall maintain a copy for a period of 4 years which shall be a public record.

On election day, he shall deliver or cause to be delivered the return envelopes prescribed by section 1255 with the applications attached and the list required by subsection 4 to the warden of the voting district in which the voter is registered, except in those municipalities where the municipal officers have authorized the clerk to process absentee ballots. If more than one return envelope is received from the same voter, the clerk shall deliver or cause to be delivered to the warden for counting only the return envelope bearing the earliest date and time.

This does not apply to municipalities with 2 or more voting precincts where absentee ballots are counted at a place other than the voting district. (§ 1256, sub-§ 5)

COUNTING OF ABSENTEE BALLOTS AT A CENTRALIZED PLACE IN MUNICIPALITIES WITH TWO OR MORE VOTING DISTRICTS

When the municipal officers have authorized the counting of absentee ballots at a centralized place at the close of voting in municipalities with 2 or more voting districts, the check list shall be returned to the clerk for use in processing the absentee ballots. The check list shall be unsealed, used in processing the absentee ballots, and released in accordance with section 992, except that the clerk shall countersign each copy. (§ 1256, sub-§ 6)

Procedures when counting to be by the clerk

The following procedure shall be used when the municipal officers have voted to have the clerk process the absentee ballots.

1. Envelopes and lists retained. The clerk shall retain in his possession return envelopes with the applications attached and the list required by section 1256, subsection 4.

2. Ballot boxes provided. The municipality shall provide a ballot box with a padlock for the use of the clerk in all primary, regular and special state

elections. If the same procedure is to be used in municipal elections, the clerk shall be provided with a separate ballot box with padlock for each voting district.

3. Check list to clerk. As soon as the polls are closed, the ward clerk shall fold, wrap and seal the incoming check list. The package shall be signed on one of the seals holding the package together by the warden and ward clerk. A ballot clerk or counter shall take the check list to the designated counting place. Such persons shall be named by the clerk prior to the election and the total number from the voting districts shall be as evenly divided as possible between the political parties.

4. Counting procedure. The clerk shall use the same counting procedure as set forth in sections 1259, 1260 and 1261. (§ 1259-A)

An absentee ballot may be challenged in the same manner as a regular ballot. (§ 1257)

A person who has voted by absentee ballot, but who is present in the municipality and able to vote in person at the voting place on election day must do so. (§ 1258)

As soon as the polls are closed and the regular ballots removed from the ballot box, the warden shall review the notes of the clerk on each return envelope. If the warden finds that the signatures appear to have been made by the same person and that the affidavit is properly completed, he shall examine the check list to determine whether the voter voted in person at the election. He shall then announce the name of each absentee voter who has not voted at the election and remove each ballot from its envelope without destroying the envelope or unfolding the ballot. After having an election clerk, who is of a different political party from the warden, mark the letters "AV" beside the name of each absentee voter on the incoming voting list, he shall deposit the ballot in the ballot box.

If the warden finds the signatures do not appear to have been made by the same person, that the affidavit is not properly completed, that the person is not registered or enrolled, where necessary, that the voter

has voted in person or that the ballot was received by the clerk after the deadline, he shall not open the envelope. He shall write "Rejected" on it, the reason why and his initials.

The warden shall place the return envelope containing rejected ballots in a separate lot. He shall not deposit them in the ballot box.

As soon as the absentee ballots have been processed, they shall be removed from the ballot box and counted the same as regular ballots. Rejected ballots must not be counted. (§ 1259)

An absentee ballot may not be rejected for any immaterial irregularity in completing the application or affidavit on the return envelope. Lack of the name or title of a subscribing official on the envelope of an absentee ballot as required by section 1254, subsection 4, is not an immaterial irregularity under this section. (§ 1261)

As soon as the ballots have been counted, the applications, absentee ballots, return envelopes, required lists, and other election materials shall be repacked in accordance with Sec. 926 and returned to the clerk. The clerk shall keep them in his office for 2 months after election day, unless sooner released to the Secretary of State. (§ 1262)

CLOSING THE POLLS

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. (§ 991)

VOTING LIST BECOMES CHECK LIST

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, which then becomes the check list. (§ 992)

COUNTING THE BALLOTS

The election officials shall count the ballots under the supervision of the warden, as soon as the polls are closed, **except that if, in the opinion of the city or town clerk, the public interest will best be served, referendum ballots may be counted on the next day immediately following the election, provided such count is completed within 24 hours after the closing of the polls. If referendum ballots are counted subject to this exception, the city or town clerk shall have the responsibility for the security and safekeeping of such ballots until such time as the count has been completed.**

The ballots must be counted publicly so that those present may observe the proceedings. In counting the ballots, the election clerks shall separate them into distinct lots and place with each lot a statement of the count in that lot and the names of the election clerks who made the count. As soon as the ballots are counted, the warden shall declare the results publicly at the voting place.

The Secretary of State may issue to each warden instructions on opening the ballot boxes, separating various types of ballots, and giving priority in counting various types of ballots. He shall design and print uniform tabulation sheets for use of the workers at the polls and shall write, print and distribute to wardens instructions on the use of such material and require use of a uniform system of counting and tabulation. (§ 924)

ELECTION RETURN PROCEDURE

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

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 26 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.

The clerk shall record the original election return within 3 days after election day. (§ 961)

PACKAGING AND SEALING BALLOTS AFTER THE ELECTION

As soon as the election return has been prepared, 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.

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

The total number of used ballots, unused ballots, spoiled ballots, defective ballots, and absentee ballots shall equal the number of ballots furnished by the Secretary of State to the municipal clerk, less the number of absentee ballots issued to voters and not returned. (§ 926, sub-§ 2)

They shall seal the copies of the check list in the separate package outside the containers of ballots. The warden shall deliver the ballots and lists to the clerk within 24 hours after the closing of the polls. 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. (§ § 926 and 927)

PRESERVATION OF BALLOTS AND CHECK LISTS

The clerk of each municipality shall keep the

ballots and other election materials listed in Section 926 in his office for 2 months and check lists for one year, unless sooner released to the Secretary of State or required by him to be kept longer. (§ 1578)

INSPECTION AND RECOUNT OF REFERENDUM BALLOTS

Any resident of the municipality affected may inspect referendum ballots, have them counted 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 the municipalities concerned, at least 3 days prior to it. (§ 1154)

VOTING MACHINES

A municipality may either purchase or rent voting machines and voting machines shall be used at each type of election authorized by the legislative body of the municipality. Once authorization has been given for use of machines at any type of election, that authorization continues until specifically revoked by the legislative body. A municipality which has more than one voting district may use voting machines in one or more of the districts as determined by its legislative body.

In those municipal voting districts using voting machines the municipal officers of each municipality shall provide at least one voting machine for each 450 voters qualified to vote at each voting place. (§ 1031, sub-§ 4)

In municipalities which have voting machines, the municipal officers shall additionally provide sufficient voting booths and paper ballots to insure adequate voting facilities. (§ 603, sub-§ 1-A)

The voting machines to be used must be of an identical type approved by the Secretary of State, the Attorney General and one member of the Governor's Council to be designated by the Governor. (§ 1032)

The municipality shall pay reasonable expense for

the storage and maintenance of the machines as authorized by the clerk. (§ 1036)

The clerk has custody of a voting machine used by the municipality. He is responsible for the proper storage and maintenance of each machine and he shall have each machine locked, sealed and stored in a safe, dry building. He shall have each machine kept in proper operating condition. (§ 1035)

The clerk shall hold a meeting before an election when it is necessary to instruct election officials in the operation of voting machines. He shall not permit a voting machine to be used at any voting place unless he is satisfied that the election officials at that voting place know how to operate the machine properly and how to instruct a voter in operating it. (§ 1037)

The municipal officers shall arrange each voting place according to Section 602 except that voting booths need not be furnished. The warden at each voting place shall not remain, or allow any other person to remain, where he can see how anyone votes, except a proper official whose assistance has been requested by a voter. (§ § 1039 and 1040)

§ 1041. Warden to post specimen ballots or labels.

The warden shall post 2 sets of specimen ballots or 2 sets of specimen ballot labels conspicuously at the voting place at the opening of the polls on election day.

The clerk shall perform the following duties concerning the delivery of voting machines: He shall have the voting machines delivered to each voting place at least 12 hours before the opening of the polls on election day. At the time of delivery, the ballot labels must be in place on each machine. The clerk shall arrange each voting machine so that each ballot label, when not in use, and the exterior of the machine are completely visible to the election officials. After the voting machines have been placed in the proper position at the voting place, the clerk shall make certain that each machine is ready for use when the polls open, and he shall then lock each machine. At least ½ hour before the opening of the polls on election day, the clerk shall deliver the keys to each machine in a sealed envelope, to the warden at the voting place. (§ 1042)

Readied for Voting

When it is time for the polls to open, the warden shall open the envelope containing the keys to the voting machine in the presence of an election clerk who is a member of another political party.

If the number of the seal agrees with the number on the envelope, the warden shall open the doors concealing the counters, inspect the machine and sign a certificate provided by the Secretary of State showing that all the counters are set at 0, that the number of the protective counter agrees with the number on the envelope, and that all parts of the machine and the ballot labels are in proper condition for voting.

If the machine is in satisfactory condition for voting, the warden shall permit its use forthwith, after closing the doors concealing the counters.

If the machine is provided with a device or devices for printing or photographing candidate and question counters, it shall not be necessary to open the door concealing the counters.

The warden and the election clerk designated above shall proceed to operate the mechanism provided to produce one "before election inspection record" showing whether the candidate and question counters register "OOO" and sign the certificate as prescribed by the Secretary of State. (§ 1043)

Direction for Voting

A voter shall follow the same procedure prior to voting as if paper ballots were being used. He is entitled to the same assistance in voting by machine as by paper ballot.

It is to be noted that in a voting place which uses voting machines, there is no outgoing election clerk or outgoing voting list. (§ 1044)

Challenged Voter

A voter who is challenged may not use the voting machine for casting his vote but must use an official absentee voting ballot. (§ 1045)

Closing the Polls

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 lapsed may not vote. (§ 991)

Tabulating Vote

As soon as the polls are closed, the warden shall unlock each machine to prevent further voting. He shall then open the counters on each voting machine so that anyone present can see the totals.

If the machine is provided with a device for printing or photographing candidate and question counters, it shall not be necessary to open the door concealing the counters. The warden and an election clerk who is a member of another political party shall proceed to operate the mechanism provided to produce a record of the votes cast on the candidate and question counters. Such record may be deemed an official statement or certificate of returns for that machine and may be endorsed, delivered and filed as required by the Secretary of State. (§ 1047)

The warden shall announce the total for each candidate in the order shown on the ballot label, for each referendum question, and for each write-in candidate. As each total is read, it shall be recorded by an election clerk from a political party other than that of the warden.

When all the totals for a voting machine have been read and recorded, the election clerk shall check the totals recorded by him with those appearing on the machine. If the totals do not agree, the election clerk shall correct the record and call it to the attention of the warden. If the totals agree, the election clerk shall record the number of the machine at the top of the column of the totals recorded from it.

After allowing any person to compare the record with the totals shown on the machine, the warden shall close and lock it with the totals remaining on it and proceed to tabulate the next machine in the same manner.

After the totals for all voting machines have been recorded and checked, the absentee ballots shall be counted. As soon as the absentee ballots have been

counted, the total vote for each candidate and on each referendum question shall be tabulated and the result announced by the warden. (§ 1047)

Procedure after Election

In the presence of an election clerk who is a member of another political party, the warden shall enclose the keys to each voting machine in a separate envelope furnished by the clerk. The warden shall write the number of each machine, the location of the voting place in which it was used, the number on the seal and the numbers registered on the protective counter on the outside of the envelope. After sealing each envelope securely, the warden and the election clerk shall endorse their signatures on it and the warden shall see that it is returned forthwith to the clerk. The totals shown on the counters of a voting machine must be retained for 3 months after the election at which it is used.

If the occurrence of another election makes it imperative to remove the counter totals within 3 months after an election, the clerk shall have them photographed in his presence, and in the presence of the warden and an election clerk of a different party. The warden shall make a statement showing the number and counter totals of each machine as it is photographed. He shall sign the statement, have it attested and deliver it to the clerk who shall record it. As soon as the photographs are printed legibly, the clerk shall remove the totals and retain the photographs for the balance of the 3-month period.

If the machines were equipped with a device or devices which had produced a printed or photographed record of the vote shown on the candidate and question counters, the clerk shall remove the totals and retain the printed or photographed record for the balance of the 3-month period. (§ 1048)

The clerk shall keep the keys to each voting machine in a vault or safe which is kept securely locked when the keys are not being removed from or replaced in it. He shall not allow any unauthorized person to have possession of the keys to any voting machine.

A person who is authorized to have possession of

the keys to a voting machine shall return them to the clerk when he no longer needs them for the authorized purpose. (§ 1049)

[Published under Appropriation 1060-2020]

No. 27