

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1079

S. P. 425

In Senate, February 23, 1967

Referred to Committee on Election Laws. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Sewall of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

**AN ACT Authorizing Use of Electronic Voting Systems in Elections and
Granting Rule-making Authority.**

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 21, c. 26, additional. Title 21 of the Revised Statutes is amended by adding a new chapter 26, to read as follows:

CHAPTER 26

ELECTRONIC VOTING SYSTEMS

§ 1061. Definitions

As used in this chapter, unless otherwise specified:

1. Automatic tabulating equipment. "Automatic tabulating equipment" includes apparatus which automatically examines and counts votes recorded on paper ballots or on ballot cards, and tabulates the results.
2. Ballot. "Ballot" or "paper ballot" means the printed paper ballot in such layout and format as to conform to the electronic voting system in use.
3. Ballot card. "Ballot card" means a tabulating card on which votes may be recorded.
4. Ballot labels. "Ballot labels" means the pages, cards or other material containing the names of offices and candidates and the statements of measures to be voted on, which are placed on the voting device.
5. Counting center. "Counting center" means one or more locations selected by the municipal officers for the automatic counting of ballots.

6. **Electronic voting system.** "Electronic voting system" means a system in which votes are recorded on paper ballots utilizing special marking devices or on ballot cards utilizing special styluses as part of a voting device and such votes are subsequently counted and tabulated by automatic tabulating equipment at one or more counting centers.

7. **Marking device.** "Marking device" means any special marking implements, styluses, fluorescent or opaque inks that may be required for the marking of paper ballots or ballot cards in conformity with the type of system in use.

8. **Voting device.** "Voting device" means all the apparatus which the voter uses to record his votes on paper ballots or on a tabulating card, and all the automatic tabulating equipment that is integral to the electronic voting system in use.

§ 1062. Obtaining and using

A municipality may obtain and use electronic voting systems according to the following provisions:

1. **Purchased or rented.** The municipality may either purchase or rent voting devices.

2. **Use authorized.** The voting devices may be used at each type of election authorized by the legislative body of the municipality. Once authorization has been given for use of the devices at any type of election, that authorization continues until specifically revoked by the legislative body.

3. **Use in one or more districts.** A municipality which has more than one voting district may use voting devices in one or more of the districts as determined by its legislative body.

§ 1063. Requirements for devices

A voting device purchased by a municipality must meet the following requirements:

1. **Secrecy.** It must be used so as to insure to each voter an opportunity to vote in secrecy.

2. **Voting limited.** It must permit each voter to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and the automatic tabulating equipment shall reject choices recorded on his ballot or ballot card if the number of choices exceeds the number which he is entitled to vote for the office or on the measure.

3. **Write-in vote.** It must permit a voter to vote for a write-in candidate.

4. **Voting restricted at primary.** It must prevent a voter from voting for the nomination of candidates of more than one party at a primary election.

5. **Unauthorized voting prohibited.** It must prevent a voter from voting for any office or upon any question for whom or on which he is not entitled to vote.

6. Change of vote permitted. It must permit a voter to change or retract a vote he has attempted to cast for any person, or on any question, before his ballot or ballot card has been deposited in the ballot box in accordance with section 923.

7. Official approval required. It 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.

§ 1064. Bond required

A municipality shall not make a payment on the purchase price of any voting device until the vendor has filed with the Secretary of State a bond issued by a surety company in form and amount approved by the Insurance Commissioner, in which the voting device is specified by number, conditioned to keep the device in good working order at the expense of the vendor for 5 years from the date of the delivery of the device.

§ 1065. Regulations of Secretary of State

The Secretary of State may make reasonable regulations governing the use of electronic voting systems. Before the regulations become effective, they must be approved by the Governor and Council.

§ 1066. Custody

The clerk has custody of a voting device used by the municipality.

1. Storage and maintenance. He is responsible for the proper storage and maintenance of each device.

A. He shall have each device sealed and stored in a safe, dry building.

B. He shall have each device kept in proper operating condition.

§ 1067. Expense of storage and maintenance

The municipality shall pay reasonable expenses for the storage and maintenance of the devices as authorized by the clerk.

§ 1068. Operating instructions

The clerk shall hold a meeting before an election when it is necessary to instruct election officials in the operation of voting devices.

1. Permission to use devices refused. The clerk shall not permit a voting device to be used at any voting place, unless he is satisfied that the election officials at that voting place know how to operate the device properly and how to instruct a voter in operating it.

§ 1069. Ballot labels

The Secretary of State shall furnish all ballot materials for all except municipal elections.

1. Ballot format. Ballots furnished for general elections shall have the titles of offices and the names of candidates arranged in vertical columns. The office

title with a statement of the number of candidates to be voted for shall be printed above the names of the candidates for that office. The names of candidates shall be printed in the order provided by law and the party designation of each candidate shall be printed following or below his name, in bold type. The number of columns and the length of the ballot may be adjusted as is necessary to accommodate all of the offices, candidates and write-in spaces constituting the total slate for that election.

2. Content of label. The titles of offices and the names of candidates on ballot labels may be arranged in vertical columns or in a series of separate pages. The office title with a statement of the number of candidates to be voted for shall be printed above or at the side of the names of the candidates for that office. The names of candidates shall be printed in the order provided by law, and in general elections the party designation of each candidate, which may be abbreviated, shall be printed following his name. In case there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label shall be clearly marked that the list of candidates is continued on the following column or page, and so far as possible, the same number of names shall be printed on each column or page. Arrows may be used to indicate the place to vote for each candidate and on each measure.

3. Ballot labels for separate elections. The different parts of the ballot, such as partisan, nonpartisan and measures, shall be prominently indicated on the ballot labels, and, if practicable, each part shall be placed on a separate page or pages. In the event that 2 or more elections are held on the same day, the ballot labels shall be clearly marked to indicate the ballot for each election, and, if practicable, the ballot labels for each election shall be placed upon separate pages, and labels of a different color or tint may be used for each election.

4. Straight party ticket vote. In partisan elections the ballot labels shall include a voting square or position whereby the voter may by one mark or punch record a straight party ticket vote for all the candidates of one party, except those offices as to which he votes for individual candidates.

5. Referendum question. A referendum question must be arranged so that the voter may vote for or against it.

§ 1070. Arrangement of voting place

The municipal offices shall arrange each voting place according to section 602.

§ 1071. Secrecy preserved

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.

§ 1072. Preparation for elections

The clerk shall perform the following duties in preparing for an election:

1. Ballots and supplies. He shall have the voting devices prepared for the election and shall deliver to the precinct election officers or to the polling place,

voting devices, voting booths, ballot boxes, ballots, ballot cards, "write-in" ballots, marking devices and other records and supplies as required in conformity with the system in use.

2. Ballot cards. Ballot cards shall be of the size, design and stock suitable for processing by automatic data processing machines. In primary elections the ballot cards of each political party shall be distinctly marked or shall be of a different color or tint so that the ballot cards of each political party are readily distinguishable.

3. Write-in ballots. A separate write-in ballot, which may be in the form of a paper ballot, card or envelope, in which the voter places his ballot card after voting, shall be provided to permit voters to write in the title of the office and the name of the person or persons for whom he wishes to vote.

4. Voting booths. Unless the voting device enables the voter to mark his choices in secret, the clerk shall provide a sufficient number of voting booths for each voting district or precinct, which shall be of a size and design so as to enable the voter to mark his ballot in secret.

§ 1073. Procedure at the polling place

The following regulations govern the procedure for the conduct of elections in which an electronic voting system is used.

1. Preparation for voting. Before the opening of the polls the election officers shall arrive at the polling place, place the voting devices in position for voting, and examine them to see that they have the correct ballot labels by comparing them with the specimen ballots, and are in proper working order. They shall open and check the ballots, ballot cards, supplies, records and forms, and post the specimen ballots and instructions to voters.

2. Instruction of voters. If requested, each voter shall be instructed how to operate the voting device before he enters the voting booth. If he needs additional instruction after entering the voting booth, election officers may, if necessary enter the booth and give him additional instructions, in accordance with section 862.

3. Depositing ballot card in ballot box. After the voter has marked his ballot card, he shall place the ballot card inside the envelope provided for this purpose and deposit the envelope with the ballot card inside in the ballot box.

4. Spoiled ballots. Any voter who spoils his ballot card may return it enclosed in the envelope and secure a replacement not more than twice. The word "Spoiled" shall be written across the face of the envelope which shall be placed in the spoiled ballot card container.

5. Closing the polls. As soon as the polls have been closed and the last qualified voter has voted, all unused ballot cards and records and supplies shall be placed in a container and sealed for return to the clerk. The ballot box shall be delivered to the counting center and opened and any write-in votes shall be counted. Before write-in votes are counted they shall be compared with votes cast on the ballot card for the same office. If the voter has cast more votes for

an office than he is entitled to vote for that office, the vote shall be declared void and shall not be counted.

§ 1074. Delivery of ballots or ballot cards to the counting center

The precinct election officers shall prepare a report of the number of voters who have voted, as indicated by the outgoing voting list, and shall place the original copy of this report in the ballot box or ballot card container for delivery to the counting center, which thereupon shall be sealed so that no additional ballots or ballot cards may be deposited or removed. The duplicate copy of said report shall be returned to the clerk with other records. The clerk shall provide that voted ballots or ballot cards of designated polling places shall be picked up at the polling places and delivered to the counting center by authorized election officials or police officers.

§ 1075. Test of automatic tabulating equipment; programs and voted ballot cards to be retained under seal

Prior to the start of the count of the ballots, the clerk shall have the automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. The test shall be conducted by processing a preaudited group of ballots or ballot cards so marked or punched as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. In such test a different number of valid votes shall be assigned to each candidate for an office, and for and against each measure. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made and certified to by the clerk before the count is started. The tabulating equipment shall pass the same test at the conclusion of the count before the election returns are approved as official. The tests provided for in this section shall be open to the public.

§ 1076. Proceedings at the counting center

All proceedings at the counting center shall be under the direction of the clerk and shall be conducted in the following manner:

1. Open to public. The count shall be conducted under the observation of the public, but no persons except those authorized for the purpose shall touch any ballot card or return.
2. Personnel to be deputized and take oath. All persons who are engaged in processing and counting of the ballots shall be deputized and take an oath that they will faithfully perform their assigned duties.
3. Damaged or defective ballots or ballot cards. If it appears that any ballot or ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, in the case of a paper ballot it shall be tabulated manually and in the case of a ballot card, a true duplicate copy shall be made and substituted for the damaged ballot card or the card may be tabulated manually. All duplicate ballot cards shall be clearly labeled "duplicate," and shall bear a serial number which shall be recorded on the damaged or defective ballot card.

4. Ballots, ballot cards, program and test materials to be retained. On completion of the count, the programs, test materials, ballots and ballot cards shall be sealed and retained as provided in section 1578.

§ 1077. Official returns

The return printed by the automatic tabulating equipment to which have been added the write-in and absentee votes, shall, after being duly certified, constitute the official return of each voting district. Upon completion of the count the official returns shall be open to the public.

§ 1078. Manual counting authorized

If for any reason it becomes impracticable to count all or a part of the ballots or ballot cards with tabulating equipment, the clerk shall direct that they be counted manually, following the provisions governing the counting of paper ballots.

§ 1079. Absentee votes

Absentee votes may be cast on paper ballots or ballot cards, or both methods may be used. Such ballots may be counted by automatic tabulating equipment or by deputized personnel at the counting center appointed by and under the direction of the clerk. A true copy of absentee paper ballots may be made on ballot cards, which after being duly verified, shall be counted in the same manner as other ballot cards.

§ 1080. Recounts

In case of a recount the ballots or ballot cards shall be recounted in the manner provided by sections 1075 to 1078 unless the court ordering the recount directs that they be counted manually.

§ 1081. Penalty

The penal laws and election laws relating to misconduct at elections apply to elections conducted with voting devices and automatic tabulating equipment. Any person who before, during or after an election tampers with or willfully injures any voting device, ballot cards, or other records or equipment used in the election, or interferes or attempts to interfere with the correct operation of such device or equipment or the secrecy of voting, is guilty of a felony, and upon conviction shall be punished by a fine of not more than \$1,000 or by imprisonment in the State Prison for not more than one year, or by both.

§ 1082. Application of provisions to voting by electronic voting system

The provisions of this Title which are not inconsistent with this chapter apply to all elections where an electronic voting system is used.