

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
104th LEGISLATURE

SENATE AMENDMENT "A" to H.P. 838, L.D. 1076, Bill "AN ACT Authorizing the Legislative Bodies of Municipalities to Reapportion Council Districts."

Amend said Bill by striking out all after the enacting clause and inserting in place thereof the following:

R. S., T. 30, §5353, repealed and replaced. Section 5353 of Title 30 of the Revised Statutes is repealed and the following enacted in place thereof:

§5353. Reapportionment

1. Adoption by ordinance. Districts established for the purpose of electing, from each district, an equal number of municipal officers may be adjusted, by ordinance, by the legislative body of the municipality subject to the following conditions:

A. Territory. Each district shall be formed of compact, contiguous territory and its boundary lines shall follow the center lines of streets.

B. Voters. Each district shall contain as nearly as possible the same number of qualified voters, determined from the registration for the last presidential election, but districts shall not differ in number of registered voters by more than 10% of the voters in the smallest district created.

C. Form. The ordinance shall include a map and a description of the districts.

D. Effect. The ordinance shall be effective as of the 30th day after adoption by the legislative body. The new districts and boundaries, as of the effective date, shall supersede previous districts and boundaries for the purposes of the next regular municipal election, including nominations.

2. Failure to enact ordinance. The legislative body shall enact the reapportionment ordinance in the calendar year following a presidential election and at least 60 days prior to a regular municipal election. If the legislative body fails to do so, all municipal officers to be elected shall be elected at large and shall serve until their terms expire. Such at-large elections shall continue until the legislative body enacts an ordinance in accordance with subsection 1, except that the ordinance shall be enacted at least 60 days prior to a regular municipal election.

3. Referendum. The qualified voters of the municipality, except where the legislative body is the town meeting, shall have power to require reconsideration by the legislative body of any such adopted ordinance and, if the legislative body fails to repeal an ordinance so reconsidered, to approve or reject it at a municipal election.

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A. Commencement of proceedings; petitioners' committee; affidavit. Any 5 qualified voters may commence referendum proceedings by filing with the municipal clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed the clerk shall issue the appropriate petition blanks to the petitioners' committee.

B. Petitions.

(1) Number of signatures. Petitions must be signed by qualified voters of the municipality equal in number to at least 15% of the total number of qualified voters registered to vote at the last presidential election.

(2) Form and content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance sought to be reconsidered.

(3) Affidavit of circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance sought to be reconsidered.

(4) Time for filing petitions. Petitions must be filed within 30 days after adoption by the legislative body of the ordinance sought to be reconsidered.

C. Procedure after filing.

(1) Certificate of clerk; amendment. Within 20 days after the petition is filed, the municipal clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition

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certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of his certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subparagraphs (2) and (3) of paragraph B, and within 5 days after it is filed the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request review under subparagraph (2) within the time required, the clerk shall promptly present his certificate to the legislative body and the certificate shall then be a final determination as to the sufficiency of the petition.

(2) Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within 2 days after receiving the copy of such certificate, file a request that it be reviewed by the legislative body. The legislative body shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and such determination shall then be a final determination as to the sufficiency of the petition.

(3) Court review, new petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

D. Suspension of effect of ordinance. When petition is filed with the clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(1) There is a final determination of insufficiency of the petition; or

(2) The petitioners' committee withdraws the petition; or

(3) The council repeals the ordinance; or

(4) Thirty days have elapsed after a vote of the municipality on the ordinance.

E. Action on petitions.

(1) Action by legislative body. When a petition has been finally determined sufficient, the legislative body shall promptly reconsider the referred ordinance by voting its repeal. If the legislative body fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the referred ordinance to the voters of the municipality.

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(2) Submission to voters. The vote of the municipality on a referred ordinance shall be held not less than 30 days and not later than one year from the date of the final vote of the legislative body thereon. If no regular municipal election is to be held within the period prescribed in this subsection, the legislative body shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the legislative body may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the referred ordinance shall be made available at the polls.

(3) Form of ballot. The form of the ballot for the repeal of such ordinance shall be substantially as follows:

"Shall the ordinance entitled ' _____ ' be repealed?"

Yes

No

(The voters shall indicate their choice by a cross or check mark placed in the appropriate box under the words YES or NO.)

(4) Withdrawal of petitions. A petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the town by filing with the town clerk a request for withdrawal signed by at least 4 members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

F. Results of election. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.'

Proposed by Senator WYMAN of Washington

Reproduced and distributed pursuant to Senate Rule No. 11A.

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