

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
FIRST SPECIAL SESSION
107TH LEGISLATURE

(Filing No. H-954)

COMMITTEE AMENDMENT "A" to H.P. 2027, L.D. 2203, Bill,
"AN ACT Relating to the Initiative and Referendum Processes."

Amend said Bill in section 2 by striking out the last 2 sentences and inserting in place thereof the following:

'Such application shall contain the names and addresses of 5 voters who shall be the persons to file any appeal or to receive any notices in proceedings under this chapter.'

Further amend said Bill in section 3 in that part designated "§1354." by striking out all of the first paragraph and inserting in place thereof the following:

'The commission of any of the following acts shall be a Class E crime:'

Further amend said Bill in section 3 by striking out all of that part designated "§1357." and inserting in place thereof the following:

'§1357. Review of initiative and referendum petitions

1. Secretary of State. The Secretary of State shall review all petitions filed in his office for a referendum pursuant to the Constitution, Article IV, Part Third, Section 17, or for an initiative pursuant to the Constitution, Article IV, Part Third, Section 18. The Secretary of State shall determine the validity of such petitions and shall within 25 days after the final date for filing such petitions in his office pursuant to the Constitution, Article IV, Part Third, Sections 17 or 18, issue a written decision which shall state the reasons for such decision.

2. Superior Court. The voters named in the application pursuant to section 1351, if these petitions are determined to be invalid, or any other voter, if these petitions are determined to be valid, may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action shall be conducted in accordance with Rule 80B, Maine Rules of Civil Procedure, except as modified by this section. This action shall be commenced within 5 days of the date of the decision of the Secretary of State and shall be tried, without a jury, within 15 days of the date of this decision. Upon timely application, anyone shall be permitted to intervene in this action when the applicant claims an interest relating to the subject matter of the petitions, unless the applicant's interest is adequately represented by existing parties. The court shall issue its written decision containing its findings of fact and setting forth the reasons for such decision within 30 days of the commencement of the trial or within 45 days of the date of the decision of the Secretary of State, if there is no trial.

3. Supreme Judicial Court. Any aggrieved party may take an appeal, on questions of law, from the decision of the Superior Court by filing a notice of appeal within 3 days of this decision. The appellant shall file the required number of copies of the record with the clerk within 3 days after filing notice of appeal. After filing of a notice of appeal, the parties shall have 10 days in which to file briefs with the clerk of courts. As soon as the record and briefs have been filed, the court shall consider the case forthwith. The court shall issue its decision within 30 days of the date of the decision of the Superior Court.'

Further amend said Bill by striking out all of the Emergency clause and inserting in place thereof the following:

'Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect on April 1, 1976.'

Statement of Fact

This amendment substitutes the Superior Court as the forum for the initial hearing of an appeal from the decision of the Secretary of State. The Superior Court appears to be more appropriate for hearing such appeals than the Administrative Court. Such cases also fit more easily into the appeal process under Rule 80B of the Maine Rules of Civil Procedure than under the Administrative Code procedures.

This amendment also increases the number of days from 10 to 25 that the Secretary of State has to determine the validity of petitions. It reduces the time within which the hearing on an appeal must be held from 30 to 15 days and it adds a requirement that 5 voters be named on the application for petitions who shall be the people who will file any appeal or receive any notices in the proceedings that may occur.

The commission of any of the acts described in section 1354, "Violations," has been designated a Class E crime under the Maine Criminal Code, Title 17-A.

Reported by the Committee on Judiciary.

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of the House.
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