

# 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)

(EMERGENCY)  
FIRST SPECIAL SESSION

---

---

ONE HUNDRED AND SEVENTH LEGISLATURE

---

---

**Legislative Document**

**No. 2203**

---

---

H. P. 2027 House of Representatives, February 10, 1976  
Referred to Committee on Judiciary. Sent up for concurrence and ordered  
printed.

EDWIN H. PERT, Clerk

Presented by Mr. McKernan of Bangor.

---

---

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

---

---

**AN ACT Relating to the Initiative and Referendum Processes.**

---

---

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, important changes in the laws regulating the initiative and referendum processes should be in effect to govern any referendum which could be undertaken immediately after adjournment of this special session of the Legislature; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1.** 5 MRSA § 2301, sub-§ 1, 2nd ¶ from the end is amended to read:

Secretary of State, but only as he controls and supervises the licensing of auctioneers and as he accepts and reviews initiative and referendum petitions pursuant to Title 21, chapter 33, and subject to the provisions of such chapter;

**Sec. 2.** 21 MRSA § 1351, first ¶ is amended to read:

On the written ~~request~~ application of a voter, signed in the office of the Secretary of State on a form designed by the Secretary of State, the Secretary of State shall furnish enough petition forms to enable ~~him~~ such voter to

invoke the initiative procedure or the referendum procedure provided in the Constitution, Article IV, Part Third. Such voter shall be the person to file any appeal or to receive any notices in proceedings under this chapter. In the event of the death, incapacity or resignation of such voter, another voter, who shall be a circulator or signer of such petitions, shall be designated as the successor to such voter for such purposes.

Sec. 3. 21 MRSA §§ 1354-1357 are enacted to read:

§ 1354. Violations

Whoever commits any of the following acts shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than 2 years, or by both:

1. False statement. A circulator of an initiative or referendum petition who willfully and falsely swears that one or more signatures to the petition were made in his presence that were not made in his presence or that one or more signatures are those of the persons whose names they purport to be when he knows that such signature or signatures are not those of such persons;

2. False acknowledgement of oath. A person authorized by law to administer oaths who willfully and falsely acknowledges the oath of a circulator of an initiative or referendum petition that was not made in his presence;

3. Unauthorized signature. A person who knowingly signs an initiative or referendum petition with any name other than his own; or

4. Duplicates signature. A person who knowingly signs his name more than once on initiative or referendum petitions for the same measure.

§ 1355. Warning to circulators and persons administering oaths

The following words, in the following form, shall be printed in bold type or capital letters immediately after that portion of an initiative or referendum petition containing the oath of the circulator and the acknowledgement of his oath:

**WARNING**

It is a crime for the circulator of a petition to sign the above oath if one or more of the signatures to the petition were not made in his presence or if, to the best of his knowledge and belief, one or more signatures are not those of the persons whose names they purport to be. It is a crime for the person who administers the above oath to the circulator to do so if the circulator is not in his presence when the oath is taken.

§ 1356. Warning to petitioners

The following words, in the following form, shall be printed in bold type or capital letters at the bottom of each page which is to contain signatures to an initiative or referendum petition:

**WARNING**

It is a crime for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the same measure.

**§ 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 10 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. **Administrative Court.** The voter who signed the application pursuant to section 1351, if such petitions are determined to be invalid, or any other voter, if such petitions are determined to be valid, may appeal the decision of the Secretary of State by filing, within 5 days of the date of such decision, a written complaint, setting forth in detail the grounds for the appeal, with the Administrative Court. Copies of such complaint shall be served, by registered mail, upon the Secretary of State and, if appropriate, with the voter who signed the application pursuant to section 1351. The Administrative Court Judge shall hold a public hearing on the complaint within 30 days of the decision of the Secretary of State. Any person may be permitted to intervene in such proceedings upon approval of the Administrative Court Judge. Such person shall give notice of the proposed intervention to the Administrative Court and to all parties by written notice by registered mail on or before the 10th day before the hearing.

The hearing shall be conducted in accordance with Title 5, chapter 305, insofar as applicable. The Administrative Court Judge shall issue a written decision, setting forth the reasons for such decision within 30 days of the date of the hearing.

3. **Supreme Judicial Court.** Any party to the proceedings in the Administrative Court may take an appeal from such decision of the Administrative Court Judge to the Supreme Judicial Court on questions of law, by filing a notice of appeal within 3 days of such decision. The appellant shall file the required number of copies of the record of the Administrative Court's review with the clerk within 3 days after filing notice of appeal. Within 10 days after filing notice of appeal, the parties shall 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 not review the petitions, but shall determine the questions of law. The court shall issue its decision within 30 days of the date of the decision of the Administrative Court Judge.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

## STATEMENT OF FACT

This bill is the result of a study of the initiative and referendum processes by the Joint Standing Committee on Judiciary of the 106th Legislature. In part, the bill implements changes permitted by the constitutional amendment on these processes which was a result of the study and which was ratified by the people of Maine on November 4, 1975.

The bill establishes, for the first time in the statutes, what are violations of the law in the initiative and referendum processes, and sets penalties for violations.

The bill requires that warnings to potential signers, to circulators and to persons who administer oaths of these violations to be conspicuously printed on all petition forms.

The bill also establishes a statutory procedure for review of the validity of petitions, as permitted by the Constitutional amendment, which provided: "The Legislature may enact laws not inconsistent with the Constitution to establish procedures for determination of the validity of written petitions. Such laws shall include provisions for judicial review of any determination, to be completed within one hundred days from the date of filing of a written petition in the office of the Secretary of State." The Judiciary Committee, in its report of December 2, 1974, recommended the form that such review should take, and this bill would implement that recommendation.

The committee recommended that the Secretary of State have 10 days within which to complete an initial report on whether the petitions contain sufficient valid signatures. Any citizen of Maine who wished to appeal the determination of the Secretary of State would then have to file an appeal with the Administrative Court. That court would have to schedule a public hearing within 30 days of the decision of the Secretary of State and would have to reach its decision within 30 days after that. That decision would be subject to appeal to the Supreme Judicial Court, whose final determination would have to be handed down within 30 days thereafter. The process would take at most 100 days, the limit allowed by the constitutional amendment.