

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
FIRST SPECIAL SESSION

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ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 2271**

H. P. 2122

House of Representatives, February 27, 1976

Reported by Mr. Birt for Minority of Committee on Election Laws, Pursuant to H. P. 1646 and printed under Joint Rules No. 3.

EDWIN H. PERT, Clerk

(Filed under Joint Rule 3 pursuant to H. P. 1646)

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

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**AN ACT Relating to Absentee Voting.**

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

Whereas, the present laws pertaining to absentee voting have led to numerous allegations of abuse and illegality; and

Whereas, the present Act should effect the 1976 elections; and

Whereas, it is imperative that this Act become effective as soon as possible in order to avoid needless confusion and interference with the 1976 election; 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:

21. **MRSA c. 29**, as amended, is repealed and the following enacted in place thereof:

**CHAPTER 29**  
**ABSENTEE VOTING**

§ 1251. Proper at any election

Absentee ballots may be cast at any election.

### § 1252. Materials furnished

At least 3 months before any election, the Secretary of State shall furnish each municipality with a reasonable number of dated absentee ballot applications. A reasonable time before any election, the Secretary of State shall furnish each municipality with a reasonable number of absentee ballots and return envelopes.

1. Absentee ballot. An absentee ballot must be identical in all respects to the regular ballots used at an election, except that the words "Absentee Ballot" must be printed conspicuously on both sides of the folded ballot.

2. Content of application. The application must contain a place for the following: Name of applicant, address, address to which ballot is to be sent, title and year of election at which ballot is to be cast, name of party in which he is or desires to be enrolled, date of application and signature of applicant. It must contain a place for the applicant to designate the reason for requesting an absentee ballot, the name of a person to whom his ballot may be delivered and a place for the registrar to certify whether the applicant is registered and the party in which he is or desires to be enrolled.

3. Form of envelope. The return envelope in which the absentee ballot is to be placed shall include on its outside a conspicuously printed warning to the voter of the provisions of section 1258 and of section 1579, subsection 13. The envelope shall include on its outside a certification designed by the Secretary of State and to be signed by the voter.

4. Quantity of materials furnished. The Secretary of State shall send the voting material to the clerk of each municipality. If the clerk believes that a larger number should be furnished, he shall advise the Secretary of State who shall furnish them as promptly as possible.

### § 1253. Procedure for obtaining

The following procedure must be observed in obtaining an absentee ballot.

1. Application available. On request, the clerk shall furnish a reasonable number of ballot applications to any person, provided that the date of the election for which such application shall be used is plainly printed on its face and that no application shall be furnished more than 3 months prior to the election for which such application shall be used.

2. Application received. On receipt of an application for an absentee ballot which includes the information requested in section 1252, subsection 2, the clerk shall mail an absentee ballot and a return envelope to the applicant forthwith. The clerk shall type or print in ink the name and legal address of the person for whom the absentee ballot is intended in the upper left hand section of all return envelopes.

In the event that a voter becomes physically incapacitated within 6 business days prior to the election, the person may submit an application for an absentee ballot to the clerk stating the circumstances necessitating absentee voting. On receipt of the application signed by the voter, the clerk shall deliver, or cause to be delivered by a special team, an absentee ballot to the

applicant. The team shall be composed of 2 persons consisting of one representative from each of the 2 major parties. These teams shall be designated by the clerk from names supplied by the municipal committees of the 2 major parties.

It shall be the responsibility of the municipal political committees to submit a list of names to the clerk during the month of April of general election years. Should the municipal committees fail to supply a list, the workers shall be named by the clerk. No teams shall consist of 2 members of the same political party. No candidate whose name appears on the ballot shall be a member of that team.

The workers shall be paid a just compensation as determined by the municipal officers.

3. Clerk to list. The clerk shall keep a list of persons to whom he furnishes absentee ballots until after the election. The clerk shall place the letter "P" beside the name of any voter on this list who voted in person at the clerk's office. The clerk shall also file the applications, where applicable, in alphabetical order.

4. Application and list checked by registrar. As soon as reasonable possible the clerk shall deliver the completed applications to the registrar. If the applicant is registered, and enrolled where necessary, the registrar shall so certify on the application. If the applicant is not registered, and not enrolled where necessary, the registrar shall write "Not Registered" or "Not Enrolled" upon the face of the application and sign his name.

The clerk shall also deliver the list of all persons who voted by absentee ballot to the registrar before the close of business on the day prior to the election day. The registrar shall check the name of each person who voted by absentee ballot in the clerk's office to insure that each person is correctly registered, and enrolled where necessary. If each person is correctly registered and enrolled where necessary the registrar shall so certify next to the person's name. If not, the registrar shall write "Not Registered" or "Not Enrolled" next to the person's name and sign his name.

5. Absentee voting in clerk's office. A person who wishes to vote by absentee ballot because the voter 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.

#### § 1254. Method of voting

The method of voting by absentee ballot is as follows.

1. Ballot marked and sealed. The voter shall mark his ballot according to section 921 or 922 in such a way as to make it impossible for anyone to see how he voted. The voter shall then seal the ballot and complete the certification on the envelope.

2. **No communication.** There must be no communication between the voter and any other individual as to the person or party for whom the voter is to vote.

3. **Ballot sent.** The voter shall complete the address on the envelope and mail or deliver it personally to the clerk of the municipality of which he is a resident.

If the ballot is delivered by the special team designated in section 1253, subsection 2, the voter shall seal the ballot in the return envelope and remit the sealed ballot to the special team. The team will be responsible for delivering the sealed ballot to the clerk's office no later than 5 p.m. on the same day the ballot was voted

4. **Assistance.** A voter who is unable to read or mark his ballot because of blindness or other physical disability or because of illiteracy or whose religious faith prevents him from marking the ballot may obtain assistance in marking the ballot from the special team appointed by the clerk; the clerk, the deputy clerk or any other person selected by the voter provided that such aide is of voting age and that no candidate for election shall act as aide.

#### § 1255. Deadline

The office of the clerk shall be open a minimum of 4 hours on the Saturday immediately preceding a general election to allow voters to obtain or cast absentee ballots. In order to be valid, an absentee ballot must be delivered to the municipal clerk before 8 p.m. on election day, except in the presidential election, absentee ballots may be delivered to the clerk at any time before the closing of the polls.

#### § 1256. Procedure on receipt

When the clerk receives a return envelope apparently containing an absentee ballot, he should observe the following procedure.

1. **Time of receipt noted.** The clerk shall note the date and time of delivery on each return envelope.

2. **Clerk to examine signatures and certification.** The clerk shall compare the signature of the voter on the application with that on the corresponding envelope when an application is required. The clerk shall examine the certification on the return envelope. If the signatures appear to have been made by the same person, and if the certification on the return envelope is properly completed, the clerk shall write "OK" and his initials on the return envelope. Otherwise, he shall note any discrepancy on the return envelope.

Where no application is required the clerk shall examine the certification on the return envelope and if it is properly completed, the clerk shall write "OK" and his initials on the return envelope. Otherwise, the clerk shall note any discrepancy on the return envelope.

3. **List prepared.** The clerk shall prepare, in duplicate, lists by districts of the names and addresses of the voters as shown on the return envelopes.

The clerk shall maintain a copy of this list for a period of 4 years. This list shall be a public record.

4. Envelope and lists delivered. On election day, the clerk shall deliver, or cause to be delivered, the return envelopes prescribed by section 1255 and the lists required by subsection 3 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 the 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.

5. Centralized counting place. When the municipal officers have authorized the counting of absentee ballots at a centralized counting 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, and released in accordance with section 992, except that the clerk shall counter-sign each copy.

#### § 1257. Challenges

An absentee ballot may be challenged the same way as a regular ballot as provided in section 863.

#### § 1258. Personal vote required when possible

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.

#### § 1259. Counting procedure

The following procedure must be observed at each voting place.

1. Warden to review notes of clerk. 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.

2. Deposited in ballot box if correct. If the warden finds that the certification is properly completed; that the clerk has verified that the signature on the envelope matches the signature on the application where applicable; that the person is registered, and enrolled where necessary; he shall examine the checklist to determine whether the voter voted in person at the election. The warden 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 lists, the warden shall deposit the ballot in the ballot box.

3. Rejected if incorrect. If the warden finds that the clerk has indicated the signatures on the envelope and the application, where applicable, do not appear to have been made by the same person; that the certification 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. The warden shall write "Rejected" on it, the reason why and his initials.

4. Primary provisions. At a primary election, when the warden removes a ballot from its envelope, he shall check its color to be sure it is the ballot of the party in which the voter is enrolled. If it is not, he shall immediately replace it in its envelope, and write "Rejected" on it, the reason why and his initials.

5. Rejected ballots separate. The warden shall place the return envelopes containing rejected ballots in a separate lot. The warden shall not deposit them in the ballot box.

6. Ballots counted. 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 shall not be counted.

#### § 1260. Procedure 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 the return envelopes and the lists required by section 1256, subsection 4.

2. Ballot box 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 warden 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, 1261 and 1262.

#### § 1261. Deceased voter; ballot rejected

If an absentee voter dies before the opening of the polls on election day, and this fact comes to the attention of the clerk, registrar or any election official, he shall so advise the warden who shall reject the ballot of the deceased person. The warden shall write on the unopened envelope "Rejected as Deceased," and place it with the other rejected ballots.

**§ 1262. Irregularities disregarded**

An absentee ballot may not be rejected for any immaterial irregularity in completing the application or certification on the return envelope.

**§ 1263. Return of election materials**

As soon as the ballots have been counted, the absentee ballots, return envelopes, lists required by section 1256 and other election materials shall be repacked in accordance with section 926 and returned to the clerk. The clerk shall keep them in his office for 2 months after the election day unless sooner released to the Secretary of State. The clerk shall also keep the application for 2 months after the election unless released to the Secretary of State.

2 months after the election unless released to the Secretary of State.

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

**STATEMENT OF FACT**

This bill changes the law to.

1. No longer allow a candidate listed on a ballot to deliver an absentee ballot to a physically incapacitated voter.

2. Remove the requirement that voters' signatures be witnessed by a notary public or justice of the peace. The purpose of this change is to encourage balloting via the mails. Those temporarily away from their communities and ill persons would no longer have to search out a justice of the peace or notary for the purpose of witnessing a signature. The voter's signature can, of course, be compared with the signature previously witnessed on the voter registration card.

3. Establish the mechanism whereby a team would deliver an absentee ballot to a physically incapacitated voter during the 6 business days prior to the election and election day.

This bill embodies the recommendations of a minority of the Committee on Election Laws pursuant to H. P. 1646.