

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 1201

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H. P. 979

House of Representatives, March 23, 1977

On motion of Mrs. Boudreau of Portland, referred to the Committee on Election Laws. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Truman of Biddeford.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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AN ACT to Clarify Election Related Laws.

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

Sec. 1. 21 MRSA § 1, sub-§ 5-A is enacted to read:

5-A. Challenged ballot. "Challenged ballot" means a ballot cast by one whose eligibility to vote has been questioned.

Sec. 2. 21 MRSA § 1, sub-§ 8-A is enacted to read:

8-A. Disputed ballot. "Disputed ballot" means a ballot which has been questioned as to validity during the recount process.

Sec. 3. 21 MRSA § 102, 1st ¶ is amended to read:

A person may register as a voter by appearing before the registrar, proving that he is qualified as provided in section 241, subsections 1 to # 3, and filing an application provided by the registrar containing the information required by section 201.

Sec. 4. 21 MRSA § 102-A, sub-§ 1, ¶ K is enacted to read:

K. Signature of applicant.

Sec. 5. 21 MRSA § 103 is enacted to read:

§ 103. Overseas registration

1. Application. A person qualified to register as provided in section 241, subsections 1 to 3, who is outside the United States may register by filing an application designed by the Secretary of State and provided by the registrar, containing the following information:

- A. First name, middle name or initial and last name, or first name or initial, middle name and last name;
- B. Legal address, including street, street number, apartment number, town, county and zip code;
- C. Mailing address;
- D. Date of birth;
- E. Last domicile immediately prior to departure from the United States;
- F. Voting precinct or election district of such last domicile within the United States;
- G. Whether a citizen by birth or naturalization; if by naturalization, the date, place and court of naturalization. The applicant must also produce his certificate of naturalization, or a certified copy of the court record of such naturalization from the court of which the applicant was naturalized, for inspection by the registrar or any other official empowered to register voters;
- H. Notification that failure to complete the entire application may prevent registration;
- I. Passport or card of identity registration number;
- J. Signature;
- K. Certification that all information is correct, sworn before a diplomatic or consular official of the United States or before the master of a United States vessel of 1,000 tons or more;
- L. Date of application; and
- M. Date of registration;

Sec. 6. 21 MRSA § 201, sub-§ 1, ¶ J is enacted to read:

J. Signature of registrant.

Sec. 7. 21 MRSA § 245, sub-§ 1, as amended by PL 1965, c. 513, § 3, is further amended to read:

1. **Certain persons may not vote.** A person under guardianship for reasons of mental illness may not register or vote in any election.

Sec. 8. 21 MRSA § 631, as last amended by PL 1973, c. 782, § 8, is repealed and the following enacted in its place:

§ 631. Time or schedule; regular election

In any municipality the registrar shall accept registrations from 1 to 5 p.m. and from 7 to 9 p.m. on the 10th to 18th business days next prior to election day. Only the registrar shall accept registrations of applicants who appear in person on election day, but not on the 9 business days next prior to it.

**A. Exception.** During the time registration is closed prior to election day, the registrar may, after finding an applicant qualified, issue a certificate entitling the applicant to be placed on the voting list at the polling place on election day. Only one such certificate may be issued prior to or during the time the polls are open.

**Sec. 9.** 21 MRSA § 632, as last amended by PL 1973, c. 414, §§ 27 and 28, is repealed and the following enacted in its place:

**§ 632. Special elections**

In any municipality the registrar shall accept registrations during the time prescribed by the municipal officers on the 2nd and 3rd business days next prior to election day. Only the registrar shall accept registrations of applicants who appear in person on election day, but not on the business day next prior to it.

**A. Exception.** During the time registration is closed prior to election day, the registrar may, after finding an applicant qualified, issue a certificate entitling the applicant to be placed on the voting list at the polling place on election day. Only one such certificate may be issued prior to or during the time the polls are open.

**Sec. 10.** 21 MRSA § 704, sub-§ 4, as amended by PL 1971, c. 65, § 19, is repealed.

**Sec. 11.** 21 MRSA § 831, 1st sentence is amended to read:

The registrar shall hold office hours ~~while~~ **as long as** the polls are open on any election day for the following purposes:

**Sec. 12.** 21 MRSA § 892, sub-§ 4 is enacted to read:

**4. Collection of signatures.** Signatures for initiative and referendum petitions may not be collected in or near a voting place unless approval is given by the warden or ward clerk. If a warden or ward clerk feels this activity is hindering the persons wishing to vote, he may request that signatures be collected 250 feet from the entrance of the voting place.

**Sec. 13.** 21 MRSA § 922, sub-§ 3, as enacted by I.B. 1975, § 5, is amended to read:

**3. Referendum question.** In voting on a referendum question, he shall place the mark in the square of his choice at the ~~right~~ **left** of the question.

**Sec. 14.** 21 MRSA § 923, sub-§ 1, as amended by PL 1969, c. 35, § 7, is amended to read:

**1. Spoiled ballot cancelled.** The ~~election clerk~~ **warden or ward clerk** shall mark "Spoiled by voter" on the outside of the spoiled ballot, sign it and keep it segregated from the other ballots. If a replacement ballot was issued to the voter, the ~~election clerk~~ **warden or ward clerk** shall so indicate on the outside of the spoiled ballot.

**Sec. 15.** 21 MRSA § 925, sub-§ 1, 3rd sentence, as amended by PL 1975, c. 771, § 192-B, is amended to read:

If the challenged ballot affects the result of an election, its validity must be determined by the ~~Governor~~ **Commission on Governmental Ethics and Election Practices** subject to the right of appeal provided in section 1212, except where final determination of the election of a candidate is governed by the State or Federal Constitution or under Title I, Chapter 36.

**Sec. 16.** 21 MRSA § 925, sub-§ 2, 1st sentence is repealed and the following enacted in its place:

A ballot held to be defective by the warden or ward clerk shall not be counted for the office, candidate or question affected by the defect, as follows:

**Sec. 16-A.** 21 MRSA § 925, sub-§ 2, ¶ E is enacted to read:

E. The warden or ward clerk shall mark "Defective" on the outside of the defective ballot, the reason for the ballot to have been held defective, the office, candidate or question for which it is defective and shall replace the ballot with the other ballots, to be counted for other offices or questions.

**Sec. 17.** 21 MRSA § 925, sub-§ 3, as amended by PL 1965, c. 230, is repealed and the following enacted in its place:

3. Void ballots. A ballot held to be void by the warden or ward clerk shall not be counted.

A. Improper ballot. A ballot which is not prepared in accordance with the requirements of this Title is void.

B. The warden or ward clerk shall mark "void" on the outside of the void ballot, the reason for the ballot to have been voided, and keep it segregated from the other ballots.

**Sec. 18.** 21 MRSA § 925, sub-§ 4 is enacted to read:

4. Determination of choice possible. If a voter marks his ballot in a manner which differs from the instructions given on the ballot, but it is possible to determine his choice, then his vote for the office or question concerned must be counted.

A. Exceptions. Where a voter has clearly manifested an intention to make a distinguishing mark, or to mark his ballot in a manner inconsistent with an honest purpose, or to act in a fraudulent manner, then the ballot is void.

**Sec. 19.** 21 MRSA § 926, sub-§ 2, 1st sentence is amended to read:

The election clerks shall place the sealed packages of used ballots, unused ballots, spoiled ballots, defective ballots, void ballots, used and unused absentee ballots, absentee envelopes and absentee applications in the containers in which they were delivered.

**Sec. 20.** 21 MRSA § 926, sub-§ 6 is enacted to read:

6. Ballot security. The municipal clerk shall take appropriate security measures to insure the safety and protection of all ballots.

**Sec. 21.** 21 MRSA § 1092, sub-§ 1, ¶ A is enacted to read:

**A. Exception.** All candidates receiving less than .1% of the total vote cast shall be titled "others" when the tabulation is being processed.

Sec. 22. 21 MRSA § 1154, as last amended by PL 1975, c. 771, § 203, is repealed and the following enacted in its place:

§ 1154. Statewide referendum ballots

On petition signed by 100 or more affected voters, an inspection and recount may be held on any referendum question. Appeal of disputed ballots shall be to the Commission on Governmental Ethics and Election Practices as provided under chapter 36. Instead of the notice requirements of those sections, the person to whom the application is directed shall publish a notice of the details of the inspection, recount or hearing on appeal in a newspaper having general circulation in the municipalities concerned, at least 3 days prior to it.

Sec. 23. 21 MRSA § 1253, sub-§ 2, ¶ C is enacted to read:

**C.** A person who is unable to read or complete his application because of blindness or other physical disability or because of illiteracy or whose religious faith prevents him from completing the application may request his father, mother, brother, sister, husband, wife, son, daughter, justice of the peace, notary public, clerk or deputy clerk of a municipality, or clerk of courts, provided that such aide is of voting age, to read the application to him and complete or sign it, or both, according to his instructions or to assist him in completing or signing, or both, the application. When such an aide assists a person in this way, that aide shall write on the application that he has so assisted the person in completing or signing, or both, the application, the reason such person was unable to complete or sign, or both, the application, and shall sign his name.

Sec. 24. 21 MRSA § 1256, sub-§ 2, ¶ A is enacted to read:

**A. Exception.** If the signatures do not appear to have been made by the same person, but such discrepancy is apparently the result of the voter's having properly obtained assistance as provided in either section 1253, subsection 2, paragraph C, or section 1254, subsection 6, or both, then the clerk shall note such discrepancy on the return envelope, but shall also write "O.K." and his initials on the return envelope.

Sec. 25. 21 MRSA § 1256, sub-§ 4, as amended by PL 1975, c. 761, § 46, is further amended to read:

**4. 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; he shall maintain a copy for a period of 4 years, and such copy shall be a public record.

Sec. 26. 21 MRSA § 1259, sub-§ 3, 1st sentence, as amended by PL 1975, c. 761, § 50, is further amended to read:

If the warden finds that the signatures do not appear to have been made by the same person proper, in cases where an application is required, that the

affidavit 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.

**Sec. 27. 21 MRSA § 1351, sub-§§ 1 and 2 are amended to read:**

1. **Limitation on referendum petition.** ~~A request~~ **An application** for a referendum petition must be filed at the office of the Secretary of State within 10 days after adjournment of the legislative session at which the Act in question was passed.

2. **Forms at expense of voters.** The person who ~~requests~~ **applies for** the petition forms must pay the Secretary of State for them at the time of delivery.

**Sec. 28. 21 MRSA § 1422, 1st sentence,** as repealed and replaced by PL 1975, c. 759, § 3, is repealed and the following enacted in its place:

If, after the recount proceeding provided under this Title, there are challenged or disputed ballots, or both, which affect the result of the primary, general or special election involving county, state or federal office, the commission shall make findings of fact and opinion on the validity of such ballots.

**Sec. 29. 21 MRSA § 1424,** as enacted by PL 1975, c. 621, § 10, is repealed and the following enacted in its place:

**§ 1424. Questions of law**

An appeal from a final decision by the body with finally determinative powers pursuant to section 1423 may be taken to the Supreme Judicial Court on questions of law, if taken within 3 days of such final determination, as follows:

1. **Appeal procedure.** The appellant shall file the required number of copies of the record of the findings of fact and opinions and any decision issued pursuant to the final determination made by the appropriate body with the clerk of the courts within 5 days after filing notice of appeal. Within 10 days after the appeal is taken, 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 recount the ballots, but shall determine questions of law. The court shall hand down its decision as soon as reasonably possible. The court shall allow costs to the prevailing party as justice may require.

**Sec. 30. 21 MRSA § 1425,** as enacted by PL 1975, c. 621, § 10, is repealed.

**Sec. 31. 21 MRSA § 1578, sub-§ 6** is amended to read:

6. **Election tabulations.** The Secretary of State shall keep election ~~returns~~ tabulations in his office for 10 years.

**Sec. 32. 21 MRSA § 1578, sub-§ 7, 1st sentence,** as amended by PL 1967, c. 544, § 54, is further amended to read:

The clerk shall keep the ballots and other election materials listed in section 926 in his office for 2 months and check lists for ~~one year~~ **5 years** unless sooner released to the Secretary of State or required by him to be kept longer.

**Sec. 33. 28 MRSA § 101, 1st sentence**, as repealed and replaced by PL 1975, c. 741, § 5, is amended to read:

The municipal officers of cities and towns and the assessors of plantations, upon receipt of a petition signed by 15% of the voters **voting** in that municipality in the last gubernatorial election and addressed to the municipal officers as defined in Title 30, section 1901, subsection 7, not more than 45 days ~~or~~ nor less than 30 days prior to the municipal election or town meeting, are empowered and directed to notify the inhabitants of their respective municipalities to meet in the manner prescribed by law for the calling and holding of municipal elections or town meetings to vote upon any one or all of the following questions:

#### STATEMENT OF FACT

The purpose of this bill is to clarify and to improve the administration of the Maine election laws.