

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1887

H. P. 1734

House of Representatives, June 17, 1977

Reported by Mrs. Mitchell from the Committee on Election Laws and printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Clarify Election Related Laws.

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 § 1, sub-§ 33, as last amended by PL 1971, c. 65, § 3, is further amended to read:

33. Registrar. "Registrar" means the registrar, deputy registrar or the board of registration of voters of a municipality.

Sec. 4. 21 MRSA § 42, 1st ¶ is amended to read:

The registrar may appoint ~~not more than~~ **one or more** deputies.

Sec. 4-A. 21 MRSA § 71, 1st sentence, as last amended by PL 1965, c. 451, § 1, is further amended to read:

In a city or a town which has a board of registration, the clerk shall accept applications for registration and enrollment when the board is not in session, **except during the closed period prior to election day according to sections 631 and 632.**

Sec. 5. 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. 6. 21 MRSA § 102-A, sub-§ 1, ¶ K is enacted to read:

K. Signature of applicant.

Sec. 7. 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;

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. 7-A. 21 MRSA § 201, sub-§ 1, ¶ G, as repealed and replaced by PL 1975, c. 761, § 14, is amended to read:

G. Whether a citizen by birth or naturalization: If by naturalization, the date, place and court of naturalization ~~and the date on which the official~~

~~empowered to register voters inspected the certificate or certified copy of the court record of naturalization;~~

Sec. 8 21 MRSA § 201, sub-§ 1, ¶ J, is enacted to read:

J. Signature of registrant.

Sec. 9. 21 MRSA § 245, sub-§ 1, as amended by PL 1965, c. 513, § 37, is further amended to read:

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

Sec. 10. 21 MRSA § 246, as last amended by PL 1973, c. 414, § 10, is repealed and the following enacted in its place:

§ 246. Special provisions

Registration, enrollment and voting by the resident of a township are governed by the following provisions:

1. **Registration and enrollment.** He may register, enroll and vote in any town within his representative district or, if he lives in a portion of a township not easily accessible to a town within his representative district, he may register, enroll and vote in a more convenient town within or outside the county. He may register and enroll on election day. The registrar shall place the letter "T" beside his name on the voting list and on the general register.

A. He may not vote at a municipal election or on a liquor option question. If he votes in a town outside his representative district, he may not vote for the office of Representative to the Legislature. If he votes in a town outside his state senatorial district, he may not vote for the office of State Senator. If he votes in a town outside his county, he may not vote for any county office. The incoming election clerk shall mark a line through the names of the officers for which he may not vote, add the letter "T" and initial the outside of the ballot.

2. **Absentee voting.** If he is unable to be present at the voting place on election day, he may vote by absentee ballot.

Sec. 11. 21 MRSA § 704, sub-§ 4, 1st sentence, is repealed and the following enacted in its place:

A reasonable time before the election the Secretary of State shall make specimen ballots available for publication in all newspapers having general circulation in the area to which the ballots pertain.

Sec. 12. 21 MRSA § 707, sub-§ 1, 1st sentence, is amended to read:

The ballot box is in the custody of the warden of each voting place during an election and he shall be responsible for requiring that it shall be attended constantly.

Sec. 13. 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. 14. 21 MRSA § 832, sub-§ 2, ¶ A, is amended to read:

A. Duty of law enforcement officer. On request of the warden, a ~~peace~~ **law enforcement** officer shall remove, confine or arrest a person who creates a disturbance or otherwise violates the law at a voting place.

Sec. 15. 21 MRSA § 892, sub-§ 4, is enacted to read:

4. Unauthorized activity. Within 250 feet of the voting place, a person shall not solicit donations, gifts, contributions, purchase of tickets or make similar demands, nor shall he request or obtain signatures on petitions without the express approval of the warden or ward clerk.

Sec. 16. 21 MRSA § 922, sub-§ 3, as enacted by I. B. 1971, § 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. 17. 21 MRSA § 923, sub-§ 1, as amended by PL 1969, c. 35, § 7, is further 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. 18. 21 MRSA § 925, sub-§ 1, 3rd sentence, as last amended by PL 1977, c. 78, § 144, is further amended to read:

If the challenged ballot affects the result of an election, its validity shall 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~~ chapter 36.

Sec. 19. 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. 20. 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. 21. 21 MRSA § 925, sub-§ 3 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. 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. 22. 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, used absentee envelopes and used absentee applications in the containers in which they were delivered.

Sec. 23. 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. 24. 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. 25. 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 by application to the Secretary of State within the deadlines provided in sections 1151 and 1152. Appeal of disputed ballots shall be to the Commission on Governmental Ethics and Election Practices as provided under chapter 36.

Sec. 26. 21 MRSA § 1253, sub-§ 2-A is enacted to read:

2-A. **Assistance to certain voters.** 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, dedimus justice, 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 or sign it, or both, according to his instructions or to assist him in signing 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 signing the application, the reason such person was unable to complete or sign, or both, the application, and shall sign his name.

Sec. 27. 21 MRSA § 1253, sub-§ 5, as enacted by PL 1975, c. 387, § 4, is amended by adding at the end a new paragraph to read:

The clerk or deputy clerk shall determine whether the affidavit on the return envelope is properly completed.

Sec. 28. 21 MRSA § 1254, sub-§ 3, as amended by PL 1975, c. 761, § 41, is further amended to read:

3. **No communication.** There shall be no communication between the voter and the official as to the person ~~or party~~ for whom the voter is to vote, except as provided in subsection 6.

Sec. 29. 21 MRSA § 1256, sub-§ 2, ¶ A is enacted to read:

A. 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-A, 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. 30. 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 ~~2~~ 4 years, and such copy shall be a public record.

Sec. 31. 21 MRSA § 1259, sub-§ 3, 1st sentence, as amended by PL 1975, c. 761, § 50, is further amended to read:

If the warden ~~finds~~ does not find that the signatures ~~do not~~ appear to have been made by the same person, or are otherwise proper, as provided in sections 1253, subsection 2-A or section 1254, subsection 6, 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. 32. 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. 33. 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. 34. 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 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. 35. 21 MRSA § 1425, as enacted by PL 1975, c. 621, § 10, is repealed.

Sec. 36. 21 MRSA § 1442-A is enacted to read:

§ 1442-A. Candidacy by nomination petition

The nomination of a candidate or nominee, other than by party, to fill a vacancy shall be made by nomination petition. The nomination process shall be in the same manner as provided by chapter 17 except all petitions shall be filed by 5 p.m. on the date of the Governor's proclamation as provided in sections 1471, 1473, 1474, 1501, 1502, 1531, 1532 and 1533.

Sec. 37. 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. 38. 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 checklists for ~~one year~~ 2 years unless sooner released to the Secretary of State or required by him to be kept longer.

Sec. 39. 21 MRSA § 1579, as last amended by PL 1975, c. 759, § 6, is repealed and the following enacted in its place:

§ 1579. Class E crimes

The commission of any act described as follows in this section is a Class E crime:

1. **Public officials.** An official who knowingly fails or refuses to perform a duty required of him by this Title;

2. **False registration or enrollment.** A person who makes a false statement or who takes a false oath before an official concerning the qualifications of any person for registration or enrollment and he does not believe the statement to be true;

3. **Fraudulent placement or removal.** A person who places or removes the name of another on or from a voting list or general register, knowing he has no legal right to do so;

4. **Failure to vote in person.** A person who has voted by absentee ballot but who is present and able to vote in person at the proper voting place on election day and fails to do so;

5. **Removing ballots from voting place.** A person who knowingly removes a ballot from a voting place on election day except as authorized by this Title;

6. **Aiding ineligible voter.** A person who aids another in voting knowing that that other person is not eligible to vote;

7. **Soliciting certain votes.** A person who solicits votes from another knowing that that other person is under guardianship for reason of mental illness;

8. **Interference with voter.** A person who interferes with a voter attempting to cast his vote or who interferes with or attempts to influence a voter in marking his ballot;

9. **Assisting in voting.** A person who assists or offers to assist another at the voting place in marking his ballot unless he has been requested to do so by the warden or ward clerk;

10. **Ballot revealed.** A person who shows his marked ballot to another with the intent to reveal how he voted;

11. **General penalty.** A person who knowingly violates any provision of this Title for which no penalty has been provided;

12. **Unofficial specimen ballot.** A person, candidate or political committee who prepares or circulates a paper in the form of a ballot or a part thereof on which is imprinted the words SPECIMEN BALLOT or the instructions in section 701, subsection 2, paragraph A or section 702, subsection 2, paragraph C;

13. **Unauthorized activity within 250 feet of the voting place or the registrar's office on election day.** A person who knowingly engages in unauthorized activity as provided in section 892 within 250 feet of the voting place or the registrar's office on election day; or

14. **Failure of clerk to check absentee ballot envelope.** A clerk or deputy clerk of a municipality who, when a person has voted by absentee ballot in the clerk's office pursuant to section 1253, subsection 5, subscribes his name

to an affidavit on the absentee ballot return envelope when the affidavit is not properly completed.

Sec. 39-A. 21 MRSA § 1580, as last amended by PL 1975, c. 761, § 58, is repealed and the following enacted in its place:

§ 1580. Class D crimes

The commission of any act described as follows in this section is a Class D crime:

1. Unreasonable delay. A person who knowingly causes a delay in the registration or enrollment of another, or who knowingly causes a delay in the delivery of an absentee ballot or absentee ballot application, with the intent to prevent a person from voting or to render his vote ineffective;

2. Forging an absentee ballot, return envelope or application therefor. A person who forges the name of another on an absentee ballot, return envelope or the application therefor;

3. Tampering with ballots. A person who tampers with ballots or checklists or who breaks a seal or opens any sealed box or package of ballots or checklists, except as permitted by this Title;

4. Dual registration. A person who, having registered in one voting district or municipality within this State, or in another state, knowingly registers in another voting district or municipality within this State without revealing his prior registration to the registrar;

5. Voting under assumed name. A person who votes or attempts to vote by using the name of another;

6. Improper voting. A person who votes or attempts to vote knowing that he is not eligible to do so, or who having once voted either within or without this State, again votes or attempts to vote at the same election; or

7. Unauthorized handling of voting machines or devices. A person who alters, adjusts, operates, moves, unlocks or unseals a voting machine, or device or any part thereof, or who attempts to alter, adjust, operate, move, unlock or unseal a voting machine or device, or any part thereof, with the intent of changing the outcome of any election.

Sec. 40. 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 not~~ 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 improve the administration of the Maine election laws.

Sections 1 thru 3 establish definitions needed to properly facilitate this Title.

Section 4 enables the registrar to appoint more than 2 deputies.

Sections 4-A and 5 eliminate a minor inconsistency.

Section 6 requires a person to sign his application.

Sections 7 and 7-A further establish an overseas registration procedure as mandated by Federal law.

Section 8 requires one's signature on registration application.

Section 9 clarifies previous legislative intent.

Section 10 allows a resident of a township to vote in a more convenient location without the prior approval of the Secretary of State.

Section 11 relieves the Secretary of State from a costly publishing requirement.

Section 12 requires constant attendance at the ballot box.

Section 13 corrects an ambiguous provision.

Section 14 eliminates a minor inconsistency.

Section 15 specifies activity which will be considered unauthorized within 250 feet of any voting place.

Section 16 eliminates a minor inconsistency.

Sections 17, 19, 20, and 21 provide that before any vote can be discounted, it shall be brought to the attention of the warden or ward clerk.

Section 18 provides that the Commission on Governmental Ethics and Election Practices rule on challenged ballots.

Section 22 clarifies the materials to be retained under seal.

Section 23 mandates proper ballot security.

Section 24 relieves the Secretary of State from tedious and unnecessary tabulations.

Section 25 clarifies the inspection and recount procedure of statewide referendum questions.

Sections 26, 27, 29 and 31 establish a procedure for assisting a voter when completing an absentee ballot application.

Section 28 eliminates a minor inconsistency.

Section 30 requires that voting lists be kept for 4 years.

Section 32 eliminates a minor inconsistency.

Sections 33, 34 and 35 clarify the election appeals procedures and bring them into line with recent Supreme Court decisions.

Section 36 allows unenrolled voters an opportunity to attain access to the ballot when vacancies occur.

Section 37 eliminates a minor inconsistency.

Section 38 requires that checklists be retained for 2 years.

Sections 39 and 39-A are a clarification of criminal penalties under this Title in light of the new Criminal Code.

Section 40 clarifies the number of voters needed to sign local option petitions.