

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 407

H.P. 308 House of Representatives, February 19, 1987
Reference to the Committee on Legal Affairs suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative DIAMOND of Bangor.
Cosponsored by Senator KANY of Kennebec, Representatives
JALBERT of Lisbon, and TUPPER of Orrington.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Amend Certain Election Laws.

1
2

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

5 Sec. 1. 21-A MRSA §111, sub-§3, as enacted by PL
6 1985, c. 161, §6, is amended to read:

7 3. Residence. He must have established and
8 maintain a voting residence in that municipality.

9 Sec. 2. 21-A MRSA §115, sub-§1, as enacted by PL
10 1985, c. 161, §6, is repealed.

11 Sec. 3. 21-A MRSA §501, sub-§1, as enacted by PL
12 1985, c. 161, §6, is amended to read:

1 1. In a city. In a city, the election
2 selection, term of office, compensation and partial
3 duties of wardens and ward clerks are determined by
4 the city charter. Additional duties are prescribed
5 by this Title.

6 Sec. 4. 21-A MRSA §698, sub-§2, as amended by PL
7 1985, c. 614, §19, is further amended to read:

8 2. Ballots replaced in containers. The election
9 clerks shall place the sealed packages of used bal-
10 lots, envelopes containing challenge certificates,
11 unused ballots, spoiled ballots, defective ballots,
12 void ballots, used and unused absentee ballots, used
13 absentee envelopes and used absentee applications in
14 the containers in which the regular ballots were de-
15 livered, except that referendum ballots may be sealed
16 in separate containers. They shall then seal the
17 containers publicly. The total number of used bal-
18 lots, unused ballots, spoiled ballots, defective bal-
19 lots and absentee ballots must equal the number of
20 ballots furnished by the Secretary of State to the
21 municipal clerk, less the number of absentee ballots
22 issued to voters and not returned.

23 Sec. 5. 21-A MRSA §751, sub-§5, as enacted by PL
24 1985, c. 161, §6, is amended to read:

25 5. Distance from polls. Unreasonable distance
26 from the polls, if he is a resident of a township or
27 a coastal island ward or district; ~~or~~

28 Sec. 6. 21-A MRSA §751, sub-§6-A, as enacted by
29 PL 1985, c. 357, §§7 and 19, is amended to read:

30 6-A. Working when polls are open. Working during
31 the entire time the polls in his municipality are
32 open; or

33 Sec. 7. 21-A MRSA §751, sub-§7 is enacted to
34 read:

35 7. Resident of certain facilities. Resident of
36 a nursing home or congregate housing facility when
37 the clerk is present.

38 Sec. 8. 21-A MRSA §738, as enacted by PL 1985,
39 c. 161, §6, is amended to read:

1 §738. Statewide referendum ballots

2 On petition signed by 100 or more affected vot-
3 ers, an inspection and recount may be held on any
4 referendum question by applying to the Secretary of
5 State within the deadlines provided in sections 736
6 and 737. A deposit will be required if the percent-
7 age difference between the yes and no votes falls
8 within the requirements of section 737, subsection 2.
9 Appeal of disputed ballots must be to the Commission
10 on Governmental Ethics and Election Practices as pro-
11 vided under Article IV.

12 Sec. 9. 21-A MRSA §753, sub-§3, ¶B, as enacted
13 by PL 1985, c. 161, §6, is amended to read:

14 B. The clerk may issue a 2nd absentee ballot to
15 an applicant, if the applicant requests one, in
16 person or in writing and:

17 (1) The applicant states good cause, in-
18 cluding, but not limited to, loss of, spoil-
19 ing of or damage to the first absentee bal-
20 lot; or

21 (2) An absentee ballot for the applicant
22 which was furnished to a designated 3rd per-
23 son is not returned to the clerk's office
24 within 5 business days of the date that bal-
25 lot was sent or delivered to the 3rd person
26 or of the date that 3rd person was notified
27 by the clerk that the ballot was available,
28 or by 10 a.m. on the day before election
29 day, whichever is earlier. This subpara-
30 graph shall not be construed to affect the
31 time for delivery of absentee ballots under
32 section 755.

33 Sec. 10. 21-A MRSA §1014, sub-§§4, 5 and 6 are
34 enacted to read:

35 4. Determination of violation. The commission
36 shall determine whether a communication, other than
37 that transmitted by a broadcasting station, meets the
38 requirements of this section.

1 over-and-under-inclusiveness. The exclusion of men-
2 tally ill persons under guardianship is
3 over-inclusive in that the incapacity at issue in a
4 guardianship proceeding may have had little or noth-
5 ing to do with the capacity to vote. In addition,
6 some persons incapable of voting rationally will not
7 be subject to the restriction because they are nei-
8 ther mentally ill nor under guardianship. Section 2
9 would eliminate from State law the automatic prohibi-
10 tion against voting for those mentally ill persons
11 under guardianship.

12 Section 3 has become increasingly difficult in
13 some cities to recruit people to run for the office
14 of warden and ward clerk. Section 3 from the law
15 "election" to "selection", as prescribed by the city
16 charter, eliminating this difficulty.

17 Referendum ballots need only be preserved for 3
18 months, while candidate ballots must be preserved for
19 22 months. The charge proposed in section 4 allows
20 the early disposal of referendum ballots.

21 Sections 5, 6 and 7 will allow residents of nurs-
22 ing homes or congregate housing facilities to vote at
23 the time a municipal clerk is conducting an "absentee
24 voting day" even though the resident would not other-
25 wise be eligible to cast an absentee ballot. This
26 would be primarily a convenience for the residents.

27 Currently there is no requirement for a deposit
28 for those requesting a recount in a statewide refer-
29 endum. Since the cost to the state would be quite
30 substantial to recount ballots from all communities,
31 it is reasonable that a deposit similar to that re-
32 quired for a candidate be required. Section 8 accom-
33 plishes that objective.

34 Section 9 clarifies the law dealing into the time
35 period for funding absentee ballots. There is a need
36 to clarify the beginning of this period to insure
37 that ballots are not left in the clerk's office until
38 just before election day.

1 There have been substantial numbers of complaints
2 about the lack of information which is required on
3 campaign literature to indicate the name and address
4 of the persons authorizing and financing the expendi-
5 ture for this literature. Currently, the only penal-
6 ty is prosecution for a Class D crime - an unlikely
7 event. An alternative, as set out in section 10,
8 would be for the Legislature to impose a fine, simi-
9 lar to that required for the late filing of campaign
10 reports. This provides a relatively simple mechanism
11 for the enforcement of this provision and would allow
12 a clear statement of disapproval of this practice by
13 the Commission on Governmental Ethics and Election
14 Practices. These 2 possibilities may encourage can-
15 didates and others to be more careful about providing
16 this information on campaign literature.

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