

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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No. 1053

H.P. 749

House of Representatives, March 12, 1991

Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.
Received by the Clerk of the House on March 8, 1991. Referred to the Committee on Legal Affairs and 1400 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MAYO of Thomaston.
Cosponsored by Representative RICHARDSON of Portland and Senator MILLS of Oxford.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Clarify Certain Election Laws.

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

2
3 Sec. 1. 21-A MRSA §101, sub-§1, as enacted by PL 1985, c. 161,
4 §6, is amended to read:

6 1. Qualifications. The registrar must be a citizen of the
7 United States, a resident of the municipality State and at least
8 18 years of age. He ~~The registrar~~ may not hold or be a candidate
9 for any state or county office, or hold membership on any party
10 committee.

12 Sec. 2. 21-A MRSA §103, sub-§8 is enacted to read:

14 8. Removal from office. A member of the board may be
15 removed from office at any time during the member's term if the
16 appropriate nominating authority nominates a replacement. The
17 replacement nominee shall serve out the remainder of the replaced
18 member's term.

20 Sec. 3. 21-A MRSA §122, sub-§9 is enacted to read:

22 9. Regulation of registration monitors. Anyone who wishes
23 to monitor the names and addresses of persons who are registering
24 at the registrar's office or the clerk's office shall inform the
25 registrar or clerk of their intent. The registrar or clerk may
26 designate a place where a person monitoring registrations may
27 stand. The registrar or clerk shall then announce the name and
28 address of individuals registering to vote in a loud and clear
29 voice. A person monitoring registrations shall direct any
30 questions the person has to the registrar or clerk. ~~These~~
31 questions must be limited to information pertinent to the
32 qualifications of an individual to register. A person monitoring
33 registrations may not ask questions of individuals waiting to
34 register concerning their eligibility to vote. A registrar or
35 clerk may require a person monitoring registrations who violates
36 the provisions of this subsection to leave the building.

38 Sec. 4. 21-A MRSA §127, as enacted by PL 1985, c. 161, §6, is
39 amended to read:

40 §127. Persons present at time for closing registrations

42 The registrar shall allow all persons to register who are
43 present at his ~~the registrar's~~ office at closing time ~~on the~~
44 ~~final day for registration before an election.~~ Any person who
45 ~~arrives at his office after closing time may not register.~~

48 Sec. 5. 21-A MRSA §152, sub-§1, as amended by PL 1989, c. 694,
49 §2, is further amended to read:

50 1. Application. In addition to the procedure provided by
51 section 122, a person may register to vote or enroll in a
52

political party, or both, by completing an application which shall be that is designed by the Secretary of State and ~~contains~~ contains the following information:

A. First name, middle name or initial and last name, or first name or initial, middle name and last name;

B. Residence address, including street, street number, apartment number, town, ~~county~~ and zip code;

C. Mailing address;

D. Date of birth;

E. Sex;

F. Most recent prior residence where registered to vote, including the name under which registered, if changed, legal address and mailing address;

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. Sworn statement that all information is correct;

J. Date of registration;

K. Signature of applicant; and

L. Choice of political party if the applicant desires to enroll in a political party or an indication that the applicant chose not to enroll in a party.

Sec. 6. 21-A MRSA §154, sub-§1, ¶B, as amended by PL 1985, c. 383, §4, is further amended to read:

B. Residence address, including street, street number, apartment number, town, ~~county~~ and zip code;

Sec. 7. 21-A MRSA §154, sub-§1, ¶G, as enacted by PL 1985, c. 161, §6, is amended to read:

G. Whether a citizen by birth or naturalization; ~~if--by naturalization,--the-date,--place-and-court-of-naturalization;~~

Sec. 8. 21-A MRSA §157, first ¶, as amended by PL 1985, c. 819, Pt. A, §§20 and 21, is further amended to read:

2 ~~In a city or town which has a board of registration, the~~ The
clerk shall accept applications for registration and enrollment
4 when the registrar of voters is unavailable or the board is not
~~in session, except during the closed period prior to election day~~
~~under section 122.~~

6
8 **Sec. 9. 21-A MRSA §161, sub-§2,** as enacted by PL 1985, c. 161,
§6, is amended to read:

10 2. **List current.** The registrar shall keep a list current
12 at all times by adding the names of new voters and by removing
the names of those who have died, moved from the municipality
14 with an apparent intention of abandoning their residence in the
municipality or become disqualified to vote. When the registrar
16 employs the facilities of the United States Postal Service to
determine which voters have moved from the municipality and when
18 the United States Postal Service reports to the registrar that a
voter has moved from the address shown on the voting list without
20 having notified the United States Postal Service of a forwarding
address, the registrar shall remove the name of the voter from
22 the voting list and is not required to send, or to attempt to
send, a notice to the voter in accordance with section 162. The
24 registrar may not remove the name of a registered voter from the
voter list for not voting in previous elections.

26 **Sec. 10. 21-A MRSA §303, sub-§3,** as enacted by PL 1985, c.
28 161, §6, is amended to read:

30 3. **Petition.** After filing the declaration described in
subsection 1, the voter or a group of voters may then circulate
32 petitions. These petitions must be signed in the same manner as
primary petitions under section 335, subsections 3 and 4. The
34 circulator of the petition must certify his the belief that the
signatures on it are genuine and that the signers are registered
and ~~enrolled~~ voters. Each page of the petition must have a
36 caption, in conspicuous type, which that contains the designation
of the proposed party followed by the words "Petition to
38 participate in the primary election." The Secretary of State
shall prepare forms for these petitions. The petitions must be
40 filed in the office of the Secretary of State before 5 p.m. on
the 180th day preceding a primary election and must contain the
42 signatures and legal addresses of voters, equal in number to at
least 5% of the total vote cast in the State for Governor at the
44 last preceding gubernatorial election.

46 **Sec. 11. 21-A MRSA §367** is enacted to read:

48 **§367. Candidate withdrawal**

50 A candidate who wishes to withdraw from an elective race
52 shall notify the Secretary of State in writing of the candidate's
intent to withdraw. This notice must be signed by the candidate.

2 **Sec. 12. 21-A MRSA §376, sub-§2, as repealed and replaced by**
4 **PL 1989, c. 341, §3, is amended to read:**

6 **2. Certain state offices.** The Secretary of State is
8 required to produce new ballots only if a candidate for an
10 office, other than United States Senator, Representative to
12 Congress or Governor, withdraws in accordance with section 374-A,
 subsubsection 1, paragraph A, B or C, and a replacement candidate
 is nominated and a notification is filed with the Secretary of
 State by the appropriate committee of the political party making
 the nomination no later than:

14 **A. Fifteen days before the election for a Representative to**
 the Legislature;

16 **B. Twenty days before the election for a State Senator; and**

18 **C. Twenty-five days before the election for a county**
20 **officer.**

22 **Sec. 13. 21-A MRSA §402, sub-§2, as enacted by PL 1987, c.**
24 **797, §2, is amended to read:**

26 **2. Identification of contestants.** Identification of at
28 least 2 ~~of~~ the candidates that have declared as contestants for
 nomination as the presidential candidate of the party; and

30 **Sec. 14. 21-A MRSA §407, as enacted by PL 1987, c. 797, §2,**
 is amended to read:

32 **§407. Cost**

34 Whenever a municipality complies with the provisions of this
36 chapter ~~subchapter~~, the State shall bear the cost incurred.

38 **Sec. 15. 21-A MRSA §503, sub-§1, as enacted by PL 1985, c.**
 161, §6, is amended to read:

40 **1. Appointment.** The municipal officers of each
42 municipality must appoint election clerks no later than May 1st
44 of each general election year. They shall appoint persons
46 nominated by the municipal committees of the major parties to
48 serve as election clerks for each voting place and post a public
 listing of those nominated and appointed. They must designate an
50 equal number of election clerks from each major party. At the
 request of the municipal committee of any minor party represented
 on the last general election ballot, the municipal officers shall
 appoint one election clerk nominated by that committee for each
 voting place.

2 **Sec. 16. 21-A MRSA §673, sub-§1, as amended by PL 1985, c.**
357, §§2 and 19, is further amended to read:

4 **1. How made.** The challenge must be made to the warden.
5 The challenger must state his the challenger's name, the name of
6 the voter challenged and the reason for the challenge.

8 **A. Only the following reasons for challenges may be**
accepted by the warden. The challenged person:

10 (1) Is not a registered voter;

12 (2) Is not enrolled in the proper party, if voting in
14 a primary election;

16 (3) Is not qualified to be a registered voter because
18 he the challenged person is not:

20 (a) At least 18 years of age;

22 (b) A citizen of the United States; or

24 (c) A resident of the municipality or appropriate
electoral district within the municipality;

26 (4) Did not properly apply for an absentee ballot;

28 (5) Is not a qualified absentee voter as prescribed by
30 section 751;

32 (6) Did not properly complete the affidavit on the
absentee return envelope;

34 (7) Did not cast the ballot or complete the affidavit
36 before the appropriate witness;

38 (8) Communicated with someone as prohibited by section
40 754-A, subsection 1, paragraph B or subsection 3,
paragraph B or D;

42 (9) Did not have his the ballot returned to the clerk
by the time prescribed;

44 (10) Voted using the name of another; or

46 (11) Committed any other specified violation of this
48 Title.

50 **Sec. 17. 21-A MRSA §682, sub-§3, as amended by PL 1985, c.**
383, §11, is further amended to read:

2 3. **Advertising prohibited.** No person may display any
3 advertising material ~~or~~, operate any advertising medium,
4 including a sound amplification device, or distribute campaign
5 literature, posters, buttons or stickers intended to influence
6 the opinion of any voter, within 250 feet of the entrance to
7 either the voting place or the registrar's office. The term
8 "sound amplification device" includes, but is not limited to,
9 sound trucks, loudspeakers and blowhorns.

10 A. This subsection does not apply to advertising material
11 on automobiles traveling to and from the voting place. It
12 does not prohibit a person from passing out stickers at the
13 voting place ~~which--are~~ to be pasted on the ballot at a
14 primary election. It does not prohibit a person, other than
15 an election official, from wearing a campaign button when
16 the longest dimension of the button does not exceed 3 inches.

17 B. A person who knowingly engages in activities prohibited
18 by this section is guilty of a Class E crime.

19
20 **Sec. 18. 21-A MRSA §711, sub-§2, as amended by PL 1985, c.**
21 **226, is further amended to read:**

22
23 2. **City or multi-district town.** In a city, or in a town
24 ~~which~~ that has more than one voting district, the ward clerk
25 shall fill out the election return form provided by the Secretary
26 of State, showing the number of votes cast for each candidate or
27 question. ~~He~~ The ward clerk must sign the return, have it
28 attested by the warden and immediately deliver it to the
29 municipal clerk. The municipal clerk shall tabulate the returns
30 in duplicate on the election return provided by the Secretary of
31 State. The clerk shall sign the return, ~~have it attested by a~~
32 ~~majority of the municipal officers~~ and immediately send the
33 duplicate copy to the Secretary of State.

34
35 **Sec. 19. 21-A MRSA §721, as enacted by PL 1985, c. 161, §6,**
36 **is amended to read:**

37 **§721. Reports of registration and enrollment**

38
39 Within ~~10~~ 20 days after a general election, the registrar
40 shall send a report to the Secretary of State, stating the number
41 of voters in each voting district of the municipality at the
42 close of the polls on election day. Within ~~10~~ 20 days after a
43 primary election, the registrar shall report the total number of
44 voters in each voting district of the municipality and the number
45 of voters enrolled in each political party in each voting
46 district of the municipality at the close of the polls on
47 election day.

48
49 **Sec. 20. 21-A MRSA §737, sub-§8, as enacted by PL 1985, c.**
50 **161, §6, is amended to read:**

2 **8. Appeal to Commission on Governmental Ethics and Election**
3 **Practices.** If there are enough challenged or disputed ballots to
4 affect the result of an election, a candidate for that office may
5 appeal to the Commission on Governmental Ethics and Election
6 Practices, as provided in Article IV, for a determination of the
7 election. A written notice of this the candidate's intent to
8 appeal as provided in section 742, subsection 1 must be given
9 submitted to the Secretary of State at the close of the recount.

10 **Sec. 21. 21-A MRSA §751, sub-§§7 and 8,** as enacted by PL 1987,
11 c. 188, §3, is amended to read:

12 **7. Resident of certain facilities.** Resident of a licensed
13 nursing home, as defined in Title 22, chapter 405, licensed
14 boarding home, as defined in Title 22, chapter 1665, or certified
15 congregate housing unit, as defined in Title 22, chapter 1457-A,
16 when the clerk is present; or

17 **8. Citizens outside the United States.** If a citizen
18 residing outside the United States does not have a place of abode
19 or other address in the State, or if his the citizen's intent to
20 return to this State is uncertain, he the citizen may vote by
21 absentee ballot in elections in the State, as long as the
22 following qualifications are met:

23 A. He The citizen must have been domiciled in the State
24 immediately before his the citizen's departure from the
25 United States;

26 B. He The citizen must not maintain a domicile, not be
27 registered to vote, and not be voting in any other state or
28 territory or in any territory or possession of the United
29 States;

30 C. He The citizen must maintain his citizenship in the
31 United States; and

32 D. He The citizen has registered to vote under section 154-
33 i or

34 **Sec. 22. 21-A MRSA §751, sub-§9** is enacted to read:

35 **9. Marginal literacy.** Marginal literacy, which relates to
36 the inability of an individual to read, write or compute well
37 enough to perform common tasks.

38 **Sec. 23. 21-A MRSA §752, sub-§1,** as amended by PL 1989, c.
39 166, §5, is further amended to read:

40 **1. Absentee ballots to be identical.** ~~Except as provided in~~
41 ~~paragraph A, absentee~~ Absentee ballots shall must be identical to

2 the regular ballots used at an election, except ~~that the words~~
3 ~~"Absentee-Ballot" must be printed conspicuously on at least one~~
4 ~~side of the folded ballot~~ as provided in paragraph A for members
5 of the Armed Forces or citizens outside the United States.

6 A. At least 90 days before the election to which they
7 pertain, the Secretary of State shall furnish each
8 municipality with a reasonable number of blank absentee
9 ballots for use by members of the Armed Forces and citizens
10 outside the United States who have met the qualifications in
11 section 751. These ballots shall must be similar to regular
12 ballots, except that no candidate names may be printed. The
13 Secretary of State shall prepare a ballot listing all
14 offices to be selected with a space after each office to
15 write in the voter's preference. The following instructions
16 must be printed in bold type at the top of the ballot: YOU
17 MAY VOTE FOR A PERSON BY WRITING IN THAT PERSON'S NAME AND
18 MUNICIPALITY OF RESIDENCE IN THE BLANK SPACE UNDER THE
19 PROPER OFFICE.

20 B. The Secretary of State shall provide a reasonable number
21 of absentee ballots for township residents who are
22 registered or enrolled in a municipality outside their
23 electoral divisions under section 156. These ballots shall
24 must contain the names of the nominees or candidates for
25 offices in the electoral divisions in which the voters
26 reside.

27 **Sec. 24. 21-A MRSA §752, sub-§2, as enacted by PL 1985, c.**
28 **161, §6, is amended to read:**

29 **2. Content of application.** The application must contain a
30 place for the following: Name of applicant, address, address to
31 which ballot is to be sent, title and year of election at which
32 ballot is to be cast, name of party in which he the applicant is
33 or desires to be enrolled, date of application and signature of
34 applicant. It must contain a place for the applicant to
35 designate ~~the reason for requesting an absentee ballot~~, the name
36 of a person to whom his the ballot may be delivered and a place
37 for the registrar to certify whether the applicant is registered
38 and the party in which he the applicant is or desires to be
39 enrolled. It must contain a conspicuously printed summary
40 warning of the provisions of Title 17-A, section 703.

41 **Sec. 25. 21-A MRSA §753, sub-§3, as amended by PL 1987, c.**
42 **188, §15, is further amended to read:**

43 **3. Application or request received.** On receipt of a
44 completed application or a request for an absentee ballot signed
45 by the applicant, the clerk shall may immediately send or deliver
46 an absentee ballot and return envelope to the applicant or to a
47 3rd person designated in the application or request. The clerk
48

2 shall ~~may~~ not deliver an absentee ballot to a any 3rd person
3 whose name appears on the an absentee ballot ~~any absentee ballot~~
4 ~~requested by a resident of a licensed nursing home, as defined in~~
5 ~~Title 22, chapter 405; licensed boarding home, as defined in~~
6 ~~Title 22, chapter 1665; or certified congregate housing unit, as~~
7 ~~defined in Title 22, chapter 1457 A.~~ The clerk shall may not
8 deliver to a 3rd person any absentee ballot requested under
9 subsection 2-A. If a municipal election is to be held on the
10 same date as a statewide election, absentee ballots for the
11 municipal and statewide election may be issued in response to the
12 same application. The clerk shall issue to any 3rd person
13 designated in an application or request only enough absentee
14 ballots to insure that that person will not have more than 40
15 absentee ballots for voters in a municipality at any time. Such
16 a A 3rd person must, unless good cause is shown, return an
17 absentee ballot to the clerk's office within the time limits
18 provided in section 755. The clerk shall include a ballot
19 application to be completed by the person who signed only a
20 written request, unless the written request is sufficient under
21 subsection 2. The clerk shall type or write in ink the name and
22 the legal address of the person for whom the absentee ballot is
intended in the upper left hand section of all return envelopes.

24 A. If the clerk receives a duplicate application from a
25 person from whom the clerk has received a return envelope
26 apparently containing an absentee ballot, the clerk shall
27 may not furnish another absentee ballot for that person.

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

32 (1) The applicant states good cause, including, but
33 not limited to, loss of, spoiling of or damage to the
34 first absentee ballot; or

36 (2) An absentee ballot for the applicant which was
37 furnished to a designated 3rd person is not returned to
38 the clerk's office within 5 business days of the date
39 that ballot was sent or delivered to the 3rd person or
40 of the date that 3rd person was notified by the clerk
41 that the ballot was available, or by 10 a.m. on the day
42 before election day, whichever is earlier. If a ballot
43 for an applicant is not returned to the clerk within 5
44 days of notification, then the clerk shall mail a
45 ballot to that applicant on the 6th day after
46 notification and shall issue no other ballot to the
47 applicant except for good cause as provided in this
48 subsection. This subparagraph shall may not be
49 construed to affect the time for delivery of absentee
50 ballots under section 755.
52

2 7. Allows the municipal clerk to accept voter registration
3 applications when the municipal voter registrar is unavailable or
4 the board of voter registration is not in session;

6 8. Prevents a voter from being removed from a voter list
7 for not voting in previous elections;

8 9. Corrects an error in the law that requires people to be
9 enrolled in a political party in order to form a new political
10 party;

11 10. Requires a candidate who withdraws from seeking
12 elective office to notify the Secretary of State in writing;

13 11. Provides a deadline for the nomination of candidates to
14 fill vacancies if the Secretary of State is to print a new
15 ballot, to ensure that there is sufficient time to produce new
16 ballots;

17 12. Clarifies the requirement that the state committee of a
18 political party certify to the Secretary of State its intent to
19 hold a presidential primary;

20 13. Clarifies the requirement that the State bear the cost
21 of a presidential primary;

22 14. Reinforces the requirement that municipal officers
23 appoint persons nominated by the municipal committees of the
24 major parties in their municipalities to serve as election clerks;

25 15. Clarifies that a person's right to vote can be
26 challenged on the grounds that the person does not live in the
27 electoral district in which they are registered;

28 16. Clarifies that campaign literature, posters, buttons or
29 stickers can not be distributed within 250 feet of a voting place;

30 17. Allows municipal clerks in larger communities to sign
31 and forward election results without having to first have them
32 attested by a majority of the municipal officers;

33 18. Allows the registrars more time to tabulate and report
34 on the number of registered voters in their municipality at the
35 close of the polls on election day;

36 19. Clarifies the requirement that a candidate notify the
37 Secretary of State of the candidate's intent to appeal the
38 candidate's recount;

39 20. Adds marginal literacy as an acceptable reason for
40 voting by absentee ballot;

- 2 21. Removes the requirement that an absentee ballot be
4 marked and printed separately from the regular ballot. This bill
also removes the necessity to designate the specific reason for
6 requesting an absentee ballot;
- 8 22. Clarifies the prohibition against candidates delivering
absentee ballots;
- 10 23. Removes the requirement that an individual who has
12 already voted by absentee ballot vote in person on election day
if present and able;
- 14 24. Allows clerks to begin processing absentee ballots at
2:00 p.m. on election day;
- 16 25. Removes the requirement that the reason for voting by
18 absentee ballot be listed on the ballot envelope; and
- 20 26. Makes some technical corrections including removal of
gender-specific language.