

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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No. 1656

H.P. 1131

House of Representatives, April 24, 1991

Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.
Reference to the Committee on Legal Affairs suggested and ordered printed.

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

EDWIN H. PERT, Clerk

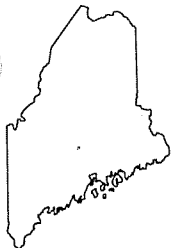
Presented by Representative KILKELLY of Wiscasset.

Cosponsored by Senator BERUBE of Androscoggin and Representative PENDLETON of Scarborough.

STATE OF MAINE

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

**An Act to Amend the Election Laws Governing Voting Machines and
Electronic Voting Systems.**



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

2
3 Sec. 1. 21-A MRSA §606, first ¶, as enacted by PL 1985, c. 161,
4 §6, is amended to read:

6 Within a reasonable time before any election, the Secretary
7 of State shall furnish each municipality with ballots, specimen
8 ballots, test ballots for electronic voting systems if
9 applicable, instruction posters, election return forms, posters
10 of specimen ballots for constitutional resolutions and statewide
11 referenda, including the Attorney General's explanatory
12 statements prepared under Title 1, section 353, materials setting
13 forth the full text of all constitutional resolutions and
14 statewide referenda and other materials necessary for conducting
15 and reporting the results of the election.

16 Sec. 2. 21-A MRSA §606, sub-§§2-B and 3-A are enacted to read:

18 2-B. Test ballots. The Secretary of State shall provide a
19 packet of 50 test ballots for each type of ballot to be counted
20 by each unit of automatic counting equipment used by a counting
21 center as defined in section 808. The Secretary of State shall
22 authorize preparation of the test ballots for special, primary or
23 general elections. These test ballots must be printed
24 concurrently with the regular ballots. These test ballots must
25 be substantially the same as the type of ballot they exemplify,
26 except that:

28 A. The words "TEST BALLOT" in bold type and the name of the
29 voting district must be printed on each test ballot; and

31 B. The facsimile of the signature of the Secretary of State
32 may not be printed on a test ballot.

34 The Secretary of State may adopt rules, in accordance with the
35 Maine Administrative Procedure Act, governing the printing,
36 distribution and use of test ballots.

38 3-A. Receipt issued; use of test ballots in primary,
39 special and general elections. The clerk shall immediately send
40 the Secretary of State a receipt for the test ballots the clerk
41 receives. The test ballots must be used to test automatic
42 tabulating equipment under section 854. Upon receipt of a
43 package or box containing test ballots for a special, primary or
44 general election, the clerk, in the presence of one or more
45 witnesses, shall open the packet or box containing the sealed
46 test ballots described in subsection 2-B. The clerk shall
47 immediately notify the Secretary of State if the number of test
48 ballots in each packet is more or less than 50. The clerk shall
49 keep a record of the number of test ballots throughout the
50 preelection and postelection testing of the tabulating equipment.

2 **Sec. 3. 21-A MRSA §651, sub-§2, as amended by PL 1985, c. 272,**
3 is further amended to read:

4 **2. Election materials distributed and posted.** At any time
5 after the materials are received and before the polls are open,
6 the clerk may open the packages or boxes of election materials,
7 break the seals on the packages not marked "ballots," and use the
8 materials for instructional purposes. Then the clerk or his the
9 clerk's designated agents shall post an adequate number of
10 instruction posters, posters of specimen ballots for
11 constitutional resolutions and statewide referenda, including the
12 Attorney General's explanatory statements prepared under Title 1,
13 section 353, materials setting out the full text of
14 constitutional resolutions and statewide referenda, and specimen
15 ballots in the voting room outside the guardrail enclosure. When
16 the polls are opened, or no more than 1/2 hour before the opening
17 of the polls, the warden shall break the seals on the packages
18 containing the ballots and distribute the ballots to the election
19 clerks in charge of them. The breaking of the seals on the
20 packages containing the ballots is a public proceeding and any
21 member of the public may be present.

22 **Sec. 4. 21-A MRSA §651, sub-§§2-A and 2-B** are enacted to read:

23 **2-A. Testing electronic voting systems.** The clerk may
24 break the seals on packages marked test ballots before election
25 day in accordance with the provisions in section 606, subsection
26 3-A and use them to meet the requirements of section 854.

27 **2-B. Opening of ballot packages.** When the polls are
28 opened, or no more than 1/2 hour before the opening of the polls,
29 the warden shall break the seals on the packages containing the
30 ballots and distribute the ballots to the election clerks in
31 charge of them. The breaking of the seals on the packages
32 containing the ballots is a public proceeding and any member of
33 the public may be present.

34 **Sec. 5. 21-A MRSA c. 9, sub-c. VI, first 2 lines,** are repealed and
35 the following enacted in their place:

36 **SUBCHAPTER VI**

37 **VOTING DEVICES**

38 **§808. Definitions**

39 As used in this subchapter, unless the context otherwise
40 indicates, the following terms have the following meanings.

1 1. Automatic tabulating equipment. "Automatic tabulating
2 equipment" means any apparatus that automatically examines and
4 counts votes recorded on paper ballots or on ballot cards and
tabulates the results.

6 2. Ballot or paper ballot. "Ballot" or "paper ballot"
8 means the printed paper ballot on which votes may be recorded in
10 the layout and format required to conform to the electronic
voting system in use.

12 3. Ballot card. "Ballot card" means a tabulating card on
14 which votes may be recorded in the layout and format required to
conform with the punch card voting system in use.

16 4. Ballot labels. "Ballot labels" means the pages, cards
18 or other material containing the names of offices and candidates
and the referendum questions to be voted on that are placed on
the voting device to conform with the voting system in use.

20 5. Counting center. "Counting center" means one or more
22 locations selected by the municipal officers for the automatic
counting of ballots.

24 6. Electronic voting system. "Electronic voting system"
26 means either a punch card voting system or a mark-sense voting
28 system where the paper ballots or ballot cards are subsequently
30 counted and tabulated by automatic tabulating equipment at one or
more counting centers. "Electronic voting system" includes all
the software and firmware required to program and control the
equipment in the respective systems.

32 7. Marking device. "Marking device" means any special
34 marking implements, styluses or fluorescent or opaque inks that
36 are required for marking paper ballots or punching holes in
ballot cards, depending on the type of system in use.

38 8. Mark-sense voting system. "Mark-sense voting system"
40 means a system in which votes are recorded on paper ballots by
42 making marks in special voting response locations using a marking
device. The votes on the paper ballots are subsequently counted
and tabulated by automatic tabulating equipment at one or more
counting centers.

44 9. Punch card voting system. "Punch card voting system"
46 means a system in which votes are recorded on ballot cards by
48 punching holes in designated voting response locations using a
50 marking device. The votes on the ballot cards are subsequently
counted and tabulated by automatic tabulating equipment at one or
more counting centers.

52 10. Voting device. "Voting device" means the voting
machine or electronic voting system apparatus that the voters use

2 to record their votes on paper ballots or on a tabulating card
3 and all the automatic tabulating equipment that is integral to
4 the electronic voting system in use.

6 11. Voting machine. "Voting machine" means an apparatus on
7 which voters cast their votes that records each vote by means of
8 mechanical counters and furnishes a total of the number of votes
9 cast for each candidate and for and against each referendum
10 measure.

12 **§809. Approval of voting devices**

14 1. Rules. The Secretary of State and the Attorney General
15 together may adopt rules governing approval of voting machines
16 under section 812 and electronic voting systems under section
17 843. The Secretary of State may adopt rules indicating which
18 approved voting machines and electronic voting systems are
19 recommended for use by municipalities to minimize the cost of
20 producing ballot materials.

22 2. Use of approved voting machines and systems. Voting
23 devices approved and recommended pursuant to rules adopted under
24 subsection 1 may be used by any municipality in a state
25 election. A municipality may use other approved voting devices
26 that are not recommended, however, if the cost of ballot
27 materials for these devices exceeds the Secretary of State's
28 estimated cost of preparing paper ballots for that municipality,
29 the municipality shall reimburse the State for the difference in
30 that cost.

32 3. Publication of list. The Secretary of State shall
33 publish, biennially in odd-numbered years, the list of approved
34 voting devices, including the estimated amount a municipality is
35 required to reimburse the State if devices that are not
36 recommended are used.

38 4. Application. This section applies only to those voting
39 devices in use by the municipality after October 1, 1987.

40 Sec. 6. 21-A MRS §810, as enacted by 1987, c. 96, §1, is
41 repealed.

44 Sec. 7. 21-A MRS §813, as enacted by PL 1985, c. 161, §6, is
45 amended to read:

46 **§813. Rules on use**

48 The Secretary of State may make reasonable regulations rules
49 governing the use of voting machines in accordance with the Maine
50 Administrative Procedure Act.

2 Sec. 8. 21-A MRSA §841, as amended by PL 1987, c. 96, §2, is
repealed.

4 Sec. 9. 21-A MRSA §844, as enacted by PL 1985, c. 161, §6, is
amended to read:

6
8 §844. Rules on use

10 The Secretary of State may make reasonable ~~regulations~~ rules
governing the use of electronic voting systems in accordance with
12 the Maine Administrative Procedure Act.

14
16 STATEMENT OF FACT

18 This bill makes the following changes to the election laws.

20 1. The bill requires the Secretary of State to provide test
ballots for municipal clerks to use to test automatic counting
equipment and establishes procedures governing the clerk's
22 handling of test ballots.

24 2. The bill allows municipal clerks to open a packet of
test ballots to test electronic voting devices to make certain
26 that the ballots have been properly printed for their device.

28 3. The bill moves the definition provisions and the
provisions concerning the approval of voting devices and adds
30 definitions for voting machine, punch card voting system and
mark-sense voting system. The bill also amends the definition
32 for electronic voting system to include both punch card and
mark-sense systems and makes minor changes in other definitions
34 to make them parallel and to clarify when the application of
these definitions applies to punch card or electronic systems or
36 both.

38 4. Under the bill, the Secretary of State and the Attorney
General shall jointly establish rules to govern approval of
40 voting machines and electronic voting systems and clarifies that
the Secretary of State has the authority to establish rules to
42 recommend certain approved machines or systems to minimize the
cost of producing ballot materials.

44 5. The bill substitutes the word "rule" for "regulation" in
46 accordance with the Maine Administrative Procedure Act.