

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 805

S.P. 268

In Senate, March 9, 1993

An Act to Clarify Maine Election Laws.

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 "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CAREY of Kennebec.
Cosponsored by Representative DAGGETT of Augusta and
Representatives: ROBICHAUD of Caribou, STEVENS of Sabattus.

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

2
4 **Sec. 1. 21-A MRSA §1, sub-§20**, as enacted by PL 1985, c. 161, §6, is amended to read:

6 **20. Immediate family.** "Immediate family" means a person's spouse, parent, child, sister ~~or~~ brother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian or former guardian.

10 **Sec. 2. 21-A MRSA §158**, as amended by PL 1985, c. 614, §12, is further amended to read:

14 **§158. Municipal caucus**

16 The registrar or board of registration shall meet in session on the day of official party caucuses ~~at times designated by the municipal officers~~ for at least one hour preceding the commencement of the party caucus at the location where the party caucus is being held to accept registrations and enrollments and all persons so registered and enrolled may participate in their party caucus.

24 **Sec. 3. 21-A MRSA §363, first ¶**, as enacted by PL 1985, c. 161, §6, is amended to read:

26 The meeting of a political committee as required by sections 371, 373, 374 374-A, 381, 382 and 393 is governed by the following provisions.

30 **Sec. 4. 21-A MRSA §374-A, sub-§1, ¶A**, as enacted by PL 1989, c. 341, §2, is amended to read:

34 A. Withdraws on or before 5 p.m. of the ~~first~~ 2nd Monday in ~~August~~ July preceding the general election;

36 **Sec. 5. 21-A MRSA §374-A, sub-§2, ¶A**, as enacted by PL 1989, c. 341, §2, is amended to read:

40 A. No later than 5 p.m. of the ~~3rd~~ 4th Monday in ~~August~~ July preceding the general election for a candidate who has withdrawn in accordance with subsection 1, paragraph A; or

44 **Sec. 6. 21-A MRSA §384, first ¶**, as enacted by PL 1985, c. 161, §6, is amended to read:

46 The municipal officers shall ~~may~~ appoint a qualified person to fill a vacancy in the office of any election official.

48 **Sec. 7. 21-A MRSA §406, first ¶**, as enacted by PL 1987, c. 797, §2, is amended to read:

2 If a party chooses to participate in a presidential primary
4 election under this chapter, delegates to national presidential
nominating conventions shall must be nominated or selected in
6 accordance with party rules by the state parties meeting in
convention under subchapter I, article II, ~~at any time after the~~
8 ~~presidential primary III.~~

10 **Sec. 8. 21-A MRSA §502**, as enacted by PL 1985, c. 161, §6, is
amended to read:

12 **§502. Duties and vacancies -- warden and ward clerk**

14 In the event of a vacancy in the office of warden or in the
absence or incapacity of the warden, the ward clerk may perform
16 the duties of the warden. A vacancy in the office of ward clerk
shall must be filled by an election clerk appointed by the
18 warden. This Except when an election to the position of ward
clerk is nonpartisan and no party affiliation is required, an
20 election clerk appointed by the warden must be enrolled in the
same political party as the ward clerk and shall serve as ward
22 clerk pro tem.

24 **Sec. 9. 21-A MRSA §606, sub-§2-A**, as amended by PL 1989, c.
602, §1, is repealed.

26 **Sec. 10. 21-A MRSA §606, sub-§2-B**, as enacted by PL 1991, c.
28 347, §2, is repealed.

30 **Sec. 11. 21-A MRSA §606, sub-§3**, as amended by PL 1989, c.
602, §2, is further amended to read:

32 **3. Receipt issued; inspection of ballots in primary and**
34 **general elections.** The clerk shall immediately send the
Secretary of State a receipt for the ballots the clerk receives.
36 Upon receipt of a package or box containing candidate ballots for
a special, primary or general election, the clerk shall open, in
38 the presence of one or more witnesses, open the sealed envelope
package or box containing sample the ballots in order to ensure
40 that the ballots do not differ materially from the appropriate
specimen ballot described in ~~subsection 2-A affixed to that~~
42 ~~package or box~~ section 603. The clerk shall immediately notify
the Secretary of State if a sample ballot differs materially from
44 the appropriate specimen ballot, described in section 603.

46 **Sec. 12. 21-A MRSA §606, sub-§3-A**, as amended by PL 1991, c.
862, §4, is further amended to read:

48 **3-A. Receipt issued; use of test ballots in primary,**
50 **special and general elections.** The clerk shall immediately send

2 the Secretary of State a receipt for the test ballots the clerk
3 receives. The test ballots must be used to test automatic
4 tabulating equipment under section 854. Upon receipt of a
5 package or box containing test ballots for a special, primary or
6 general election, the clerk, in the presence of one or more
7 witnesses, shall open the packet or box containing the sealed
8 test ballots ~~described in subsection 2-B.~~ The clerk shall
9 immediately notify the Secretary of State if the number of test
10 ballots in each packet is more or less than 50. The clerk shall
11 keep a record of the number of test ballots throughout the
12 preelection and postelection testing of the tabulating equipment.

13 ~~A. The clerk shall notify the chairs of each political
14 party of the municipality, in writing, of the time and place
15 the test ballots will be tested as required in section 854.
16 If the clerk is unable to notify the chair of the municipal
17 political party, the clerk shall notify the chair of the
18 county or state political party.~~

19
20 **Sec. 13. 21-A MRSA §626, sub-§1,** as amended by PL 1985, c.
21 580, is further amended to read:

22
23 **1. Opening time fixed.** Except in municipalities of
24 population less than 100, the polls must be opened ~~no earlier~~
25 ~~than 6~~ at 7 a.m. and ~~no later than 9 a.m.~~ on election day,
26 except that in municipalities with a population of less than
27 4,000, the polls must be opened no later than ~~10:00~~ 9 a.m. on
28 election day. The municipal officers of each municipality shall
29 determine the time of opening the polls within these limits.

30
31 **Sec. 14. 21-A MRSA §629, sub-§3,** as enacted by PL 1985, c.
32 161, §6, is amended to read:

33
34 **3. Described.** Each booth must have within it a pencil or
35 marker and a shelf on which a voter may mark his a ballot
36 conveniently. An instruction poster provided under section 605
37 must be securely placed above the shelf to assist the voter.
38 Each booth must have ~~a wooden swinging door or a drop curtain~~
39 ~~arranged so that the top of it is not less than 6 feet from the~~
40 ~~floor and the bottom is at least 2-1/2 feet from the floor, so~~
41 ~~that back and side panels large enough to screen the voter is~~
42 ~~screened from the observation of others. The entrance to the~~
43 ~~booth must be closed while the voter is inside.~~

44
45 **Sec. 15. 21-A MRSA §682, sub-§2,** as enacted by PL 1985, c.
46 161, §6, is amended to read:

47
48 **2. Influence prohibited.** Within 250 feet of the entrance
49 to the voting place as well as within the voting place itself, no
50 person may influence or attempt to influence another person's

2 ~~cheice--of--candidates~~ decision regarding a candidate or ballot
3 issue. ~~This--limitation--does--not--prohibit--a~~ A candidate is
4 prohibited from attending the voting place ~~and---orally~~
5 ~~communicating--with--voters,--as--long--as--he--does--not--attempt--to~~
6 ~~influence--their--vote~~ except for the purpose of voting.

8 **Sec. 16. 21-A MRSA §682, sub-§3,** as amended by PL 1991, c.
9 466, §20, is further amended to read:

10 **3. Advertising prohibited.** No person may display any
11 advertising material, operate any advertising medium, including a
12 sound amplification device, or distribute campaign literature,
13 posters, palm cards, buttons or stickers intended to influence
14 the opinion of any voter, within 250 feet of the entrance to
15 either the voting place or the registrar's office. The term
16 "sound amplification device" includes, but is not limited to,
17 sound trucks, loudspeakers and blowhorns.

18 A. This subsection does not apply to advertising material
19 on automobiles traveling to and from the voting place. It
20 does not prohibit a person from passing out stickers at the
21 voting place to be pasted on the ballot at a primary
22 election. It does not prohibit a person, ~~other--than--an~~
23 ~~election--official,~~ voter from wearing a campaign button when
24 ~~the--longest--dimension--of--the--button--does--not--exceed--3--inches.~~

25 B. A person who knowingly engages in activities prohibited
26 by this section ~~is--guilty--of~~ commits a Class E crime.

27 **Sec. 17. 21-A MRSA §§694 and 697,** as enacted by PL 1985, c.
28 161, §6, are amended to read:

29 **§694. Voting list signed**

30 ~~As--soon--as--the--polls--have--closed,--the~~ The warden and one
31 election clerk from each party shall sign the incoming voting
32 list as soon as the names of all persons who have voted,
33 including persons who have voted by absentee ballot, have been
34 checked off.

35 **§697. Disqualification of ballots**

36 ~~Any person--engaged--at--any~~ election as ~~a~~ official, ballot
37 clerk, assistant ballot clerk or any person employed as a counter
38 of ballots must use pens or pencils containing only red ink or
39 red lead.

40 **Sec. 18. 21-A MRSA §721,** as amended by PL 1991, c. 466, §22,
41 is further amended to read:

2
3 **§721. Reports of registration and enrollment**

4 ~~Within 20 days after a general election, the registrar shall~~
5 ~~send a report to the Secretary of State, stating the number of~~
6 ~~voters in each voting district of the municipality at the close~~
7 ~~of the polls on election day.~~ Within 20 days after a primary or
8 general election, the registrar shall send a report to the
9 Secretary of State stating the total number of voters in each
10 voting district of the municipality and the number of voters
11 enrolled in each political party in each voting district of the
12 municipality at the close of the polls on election day.

13 **Sec. 19. 21-A MRSA §759, first ¶,** as enacted by PL 1985, c.
14 161, §6, is amended to read:

15 The following counting procedure shall must be observed at
16 each voting place, except those voting places that use electronic
17 voting systems. Counting procedures for electronic voting
18 systems are described in section 858-A.

19 **Sec. 20. 21-A MRSA §804,** as enacted by PL 1985, c. 161, §6,
20 is amended to read:

21 **§804. Meeting in convention**

22 The presidential electors shall convene in the Senate House
23 Chamber in Augusta at 2 p.m. on the first Monday after the 2nd
24 Wednesday of December following their election. If any electors
25 are not present, the electors present shall fill the vacancy by
26 majority vote.

27 **Sec. 21. 21-A MRSA §858,** as enacted by PL 1985, c. 161, §6,
28 is repealed.

29 **Sec. 22. 21-A MRSA §858-A** is enacted to read:

30 **§858-A. Counting procedure for absentee ballots**

31 1. Warden to review notes of clerk. Unless a request to
32 inspect applications and envelopes is made pursuant to subsection
33 8, the warden shall review the notes of the clerk on each return
34 envelope.

35 2. Accepted if correct. If the warden finds that the
36 affidavit is properly completed, that the clerk has verified that
37 the signature on the envelope matches the signature on the
38 application where applicable and that the person is registered
39 and enrolled where necessary, the warden or another election
40 official designated by the warden shall then announce the name of
41 each absentee voter to an election clerk who shall verify on the
42 affidavit that the person is registered and enrolled where necessary.

2 incoming voting list that the voter has not voted in person and
3 after verification write "AV" next to the absentee voter's name
4 on the incoming voting list. The warden or the warden's designee
5 shall then remove each ballot from its envelope without
6 destroying the envelope.

7 3. Rejected if incorrect. The warden may not open the
8 envelope and shall write "Rejected" on it, the reason why and the
9 warden's own initials if the warden finds that:

10 A. The signatures do not appear to have been made by the
11 same person and the discrepancy is not the result of the
12 voter's having obtained assistance under section 753,
13 subsection 4 or section 754-A, subsection 3 in cases when an
14 application is required;

15 B. The affidavit is not properly completed;

16 C. The person is not registered or enrolled where necessary;

17 D. The voter has voted in person; or

18 E. The ballot was received by the clerk after the deadline.

19 4. Primary election provisions. At a primary election when
20 the warden removes a ballot from its envelope, the warden shall
21 check its color to be sure it is the ballot of the party in which
22 the voter is enrolled. If it is not, the warden shall
23 immediately replace it in its envelope, reseal the envelope and
24 write "Rejected" on it, the reason why and the warden's own
25 initials.

26 5. Rejected ballots separate. The warden shall place the
27 return envelopes containing rejected ballots in a separate lot.

28 6. Ballots counted. As soon as the absentee ballots have
29 been processed, they must be counted in the same manner as
30 regular ballots. Rejected ballots may not be counted.

31 7. Processing before close of polls. If notice is given
32 following the procedure in section 621 that the clerk intends to
33 begin processing after 2 p.m. on election day, the warden or the
34 warden's designee may review the notes of the clerk on each
35 return envelope and process the ballots.

36 8. Inspection after polls close. If a candidate notifies
37 the warden before 8 p.m. that the candidate wishes to inspect
38 absentee ballot applications and envelopes after the polls close,
39 the warden shall allow the candidate to inspect the applications
40 and envelopes of ballots that have not yet been opened for 30
41 minutes after the polls close.

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STATEMENT OF FACT

This bill makes the following changes to the laws governing elections.

1. It expands the definition of "immediate family" to include mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian and former guardian.

2. It requires municipalities to provide voter registration services at party caucus locations prior to commencement of the caucus.

3. It corrects a section designation.

4. It changes the deadlines for replacing nominees from the month of August to the month of July.

5. It allows parties to nominate delegates to their national presidential nominating convention in accordance with party rules.

6. It clarifies language regarding the filling of election official vacancies.

7. It repeals the provisions relating to sample ballots and test ballots and allows the clerk to inspect the actual ballots for mistakes.

8. It amends polling times for the State.

9. It limits the requirements that municipalities must adhere to when constructing voting booths.

10. It repeals the exemption that allowed candidates to orally communicate with voters at the voting place and extends the prohibition on influence at a voting place to within 250 feet of the entrance to the voting place. It also repeals the exemption that allows a person, other than a voter, to wear a campaign button at the voting place.

11. It clarifies language relating to the certification of incoming voting lists.

12. It expands the required use of red pens.

2 13. It requires that registrars report on the enrollment of
registered voters in Maine following the general election.

4 14. It changes the meeting place of the presidential
6 electors from the Senate Chamber to the Chamber of the House of
Representatives.

8 15. It establishes the counting procedures to be followed
10 when using electronic voting systems.