

MAINE STATE LEGISLATURE

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1008

L.D. 1461

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LEGAL AND VETERANS AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1042, L.D. 1461, Bill, "An Act to Update and Clarify the Election Laws"

Amend the bill in section 6 in subsection 1 in the last line (page 2, line 24 in L.D.) by adding a new sentence to read: 'The municipal clerk may not serve as a member or alternate member of the registration appeals board.'

Further amend the bill by inserting after section 7 the following:

'Sec. 8. 21-A MRSA §103, sub-§3, as amended by PL 1995, c. 56, §1, is further amended to read:

3. Term of office. Each member nominated by the municipal committees of the major political parties and appointed to the board shall serve for 3 years and until the member's successor is appointed and sworn. The member nominated by the clerk of the municipality and appointed to the board shall serve for 4 years and until that member's successor is appointed and sworn, except that, when the member nominated by the clerk and appointed to the board is the clerk of the municipality, the clerk's tenure as member ends when the clerk's tenure as clerk ends, unless sooner removed from office on the board.'

Further amend the bill by inserting after section 9 the following:

'Sec. 10. 21-A MRSA §103, sub-§8, as amended by PL 1995, c. 56, §2 and affected by §3, is further amended to read:

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2 8. Removal from office. A member of the board may be
3 removed from office at any time during the member's term by the
4 appointing authority if the appropriate nominating authority
5 nominates a replacement, ~~except that when the chair of the board
6 is the clerk of the municipality, the chair may also be removed
7 from office at any time during the chair's term by the municipal
8 officers, for good cause, after notice and opportunity to be
9 heard. When the clerk of the municipality is removed from the
10 board, the municipal officers may appoint a replacement of their
11 choice.~~ Any replacement member shall serve out the remainder of
12 the replaced member's term.'

13 Further amend the bill by inserting after section 17 the
14 following:

15 'Sec. 18. 21-A MRSA §303, sub-§3, as amended by PL 1991, c.
16 466, §13, is further amended to read:

17 3. Petition. After filing the declaration described in
18 subsection 1, the voter or a group of voters may then circulate
19 petitions. These petitions must be signed, verified and
20 certified in the same manner as primary petitions under section
21 335, subsections 3 and, 4 and 7. ~~The circulator of the petition
22 must certify the belief that the signatures on it are genuine and
23 that the signers are registered voters.~~ Each page of the
24 petition must have a caption, in conspicuous type, that contains
25 the designation of the proposed party followed by the words
26 "Petition to participate in the primary election." The Secretary
27 of State shall prepare forms for these petitions. The petitions
28 must be filed in the office of the Secretary of State before 5
29 p.m. on the 180th day preceding a primary election and must
30 contain the signatures and legal addresses of voters equal in
31 number to at least 5% of the total vote cast in the State for
32 Governor at the last preceding gubernatorial election.'

33 Further amend the bill in section 19 in paragraph B in the
34 first line (page 6, line 7 in L.D.) by striking out the
35 following: "The clerk or registrar" and inserting in its place
36 the following: 'The registrar, or clerk at the request or upon
37 the absence of the registrar,'

38 Further amend the bill in section 22 in that part designated
39 "§353." in the first paragraph in the 7th line (page 6, line 46
40 in L.D.) by inserting after the following: "registrar" the
41 following: ', or clerk at the request or upon the absence of the
42 registrar,'

43 Further amend the bill in section 23 in paragraph B in the
44 first line (page 7, line 4 in L.D.) by striking out the
45 following: "clerk or registrar" and inserting in its place the
46 following: "clerk or registrar"

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2 following: 'registrar, or clerk at the request or upon the absence of the registrar,'

4 Further amend the bill in section 24 in paragraph C in the first line (page 7, line 12 in L.D.) by striking out the following: "clerk or registrar" and inserting in its place the following: 'registrar, or clerk at the request or upon the absence of the registrar,'

10 Further amend the bill in section 29 in that part designated "§501." in subsection 1 in the first to 3rd lines (page 8, lines 23 to 25 in L.D.) by striking out the following: "clerk of the municipality must be the supervisor of all elections except the clerk's own election. The"

16 Further amend the bill in section 29 in that part designated "§501." by striking out all of subsection 2 and inserting in its place the following:

20 '2. In a town. In a town, ~~unless otherwise determined by charter, with the approval of the municipal officers,~~ the clerk of the municipality shall be ~~the supervisor of all elections. With the approval of the municipal officers, he shall~~ appoint a warden and may appoint one or more deputy wardens to assist in the duties on election day. ~~The clerk may designate himself as warden or deputy warden.~~ If the clerk appoints another person as warden, the clerk may serve as deputy warden. It does not constitute an incompatibility of office for the clerk to serve as warden or deputy warden. The ~~municipal clerk,~~ warden and deputy warden ~~shall be paid~~ are entitled to a reasonable compensation as determined by the municipal officers.'

32 Further amend the bill in section 30 in that part designated "§503." in subsection 2, in paragraph B by striking out all of the first sentence (page 9, lines 35 to 38 in L.D.)

36 Further amend the bill in section 30 in that part designated "§503." in subsection 3 in the 4th line (page 10, line 11 in L.D.) by inserting after the following: "required" the following: 'to do so by subsection 2, paragraph B' and in the 5th line (page 10, lines 12 and 13 in L.D.) by striking out the following: "as provided by subsection 2, paragraph B"

44 Further amend the bill in section 30 in that part designated "§503." in subsection 5 in the 4th line (page 10, line 26 in L.D.) by inserting after the following: "clerk" the following: 'or the warden'

48 Further amend the bill by inserting after section 30 the following:

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2 'Sec. 31. 21-A MRSA §505 is enacted to read:

4 **§505. Municipal clerk**

6 The clerk of the municipality is the supervisor of all
8 elections and is entitled to a reasonable compensation as
 determined by the municipal officers and has the following duties:

10 1. Absentee voting. Administer the absentee voting
 procedures;

12 2. Instruction. Instruct election officials on election
14 laws and procedures prior to election day;

16 3. Election officials. Coordinate and schedule election
 officials to work at the polls on election day;

18 4. Poll watchers and others. Make arrangements in advance
20 of election day for poll watchers, petition circulators and
 others who request to be present at the polls;

22 5. Election materials and equipment. Prepare and deliver
24 to and from the polls all election equipment and materials,
 including the ballots;

26 6. Advise warden. Advise the warden on election laws and
28 procedures on election day;

30 7. Return of votes cast. Report the return of votes cast
 to the Secretary of State; and

32 8. Other duties. Perform any other duties required for
34 conducting an election.'

36 Further amend the bill in section 45 in subsection 4 in the
38 5th to 9th lines (page 15, line 50 and page 16, lines 1 to 4 in
 L.D.) by striking out the following: "may be allowed if
40 arrangements are made with the municipal clerk prior to election
 day. If those arrangements are not made in advance of election
42 day, the warden has the discretion to either allow or prohibit
 additional party workers to be present" and inserting in its
44 place the following: 'are allowed if there is sufficient space at
 the polling place. If the space at the polling place is so
46 limited that the presence of the additional party workers would
 interfere with the election process, the warden shall prohibit
 their presence'

48 Further amend the bill in section 49 in subsection 2 in the
50 3rd line (page 17, line 33 in L.D.) by striking out the

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following: "~~which~~ and" and inserting in its place the following:
'~~which~~'

Further amend the bill in section 53 by striking out all of subsection 4 and inserting in its place the following:

'4. Collection of signatures. The warden may select and designate a specific location at the voting place, accessible and observable by the voters, where the collection of signatures may take place. Persons collecting signatures at the polls may make arrangements with the clerk prior to election day and with the warden on election day. The warden may limit the number of persons collecting signatures to one for each specific question, candidate or issue. Persons collecting signatures may not solicit a voter's signature until the voter has completed voting. The warden may direct the removal, under subsection 2, paragraph A, of any person collecting signatures who does not comply with the requirements of this subsection.'

Further amend the bill in section 62 in subsection 2-B in the 3rd line (page 23, line 30 in L.D.) by striking out the following: "voted" and inserting in its place the following: 'voted'

Further amend the bill by striking out all of section 66 and inserting in its place the following:

'Sec. 66. 21-A MRSA §751, as amended by PL 1991, c. 466, §§24 and 25, is amended by adding at the end a new paragraph to read:

Absentee ballots may be cast in any election by any voter who is unable to vote in person at the voting place on election day. The voter's belief that the voter will be unable to vote in person at the voting place is sufficient reason to allow an absentee ballot to be cast.'

Further amend the bill in section 70 in subsection 3 in the 6th line (page 25, line 37 in L.D.) by striking out the following: "~~any--3rd--person~~" and inserting in its place the following: 'any 3rd person' and in the 7th line (page 25, line 38 in L.D.) by inserting after the following: "ballot" the following: 'who is'

Further amend the bill in section 71 in subsection 7 in the 3rd line (page 26, line 40 in L.D.) by striking out the following: "present in the municipality or" and inserting in its place the following: '~~present-in-the-municipality-or~~'

Further amend the bill in section 71 in subsection 7 by striking out all of the last underlined sentence (page 26, lines 48 to 50 in L.D.) and inserting in its place the following: 'For the 45 days preceding an election, the display or distribution of any advertising material intended to influence a voter's decision regarding a candidate or ballot issue is prohibited within the clerk's office and within 250 feet of the entrance to the clerk's office or on the property on which the clerk's office stands, whichever is less.'

Further amend the bill in section 76 by striking out all of subsection 7 and inserting in its place the following:

'7. Processing before close of polls. A notice signed by the municipal officers must be posted at least 7 days before election day in the same manner as posting the warrant, or as part of the warrant, under section 621, stating each specific time that the clerk intends to begin processing absentee ballots on election day. The warden ~~may review~~ shall follow the notes of the clerk on each return envelope and deposit the procedures required by subsections 1 to 6 to process absentee ballots into the ~~ballot box~~ before the close of the polls. The clerk shall notify the chairs of each political party of the municipality, in writing, that this procedure is to occur. ~~If the clerk is unable to notify the chair of the municipal political party, the clerk shall notify the chair of the county or state political party.~~ This notice must be considered sufficient as long as it is mailed to the last address of each municipal chair that is known to the clerk.'

Further amend the bill in section 79 in that part designated "**§760-A.**" in subsection 3 by striking out all of paragraph A (page 29, lines 2 to 4 in L.D.) and inserting in its place the following:

'A. The municipal clerk shall use one of the following procedures to mark the incoming voting list for absentee ballots received prior to election day, except that a clerk who is in a contested election for the office of clerk must follow the procedures specified in subparagraph (2) when marking the incoming voting list for absentee ballots received prior to election day.'

Further amend the bill in section 82 in subsection 1 in the 3rd line (page 30, line 37 in L.D.) by striking out the following: "812" and inserting in its place the following: '812 813' and in the 4th line (page 30, line 38 in L.D.) by striking out the following: "843" and inserting in its place the following: '843 844'

Further amend the bill in section 85 in the first line (page 31, line 34 in L.D.) by striking out the following: "sub-§§4-A and 4-B are" and inserting in its place the following: 'sub-§4-A is'

Further amend the bill in section 85 by striking out all of subsection 4-B.

Further amend the bill in section 88 in the 4th and 5th lines (page 32, lines 23 and 24 in L.D.) by striking out the following: "that the voting machine is in proper working order and"

Further amend the bill by striking out all of section 89.

Further amend the bill by inserting after section 89 the following:

'Sec. 90. 21-A MRSA c. 9, sub-c. VI, art. II is amended by repealing the first 2 lines and inserting in their place the following:

Article II

Electronic Tabulating Systems

Sec. 91. 21-A MRSA §842, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

A municipality may obtain and use electronic voting tabulating systems according to the following provisions.'

Further amend the bill by striking out all of section 106 and inserting in its place the following:

'Sec. 106. 21-A MRSA §858-A, as enacted by PL 1993, c. 447, §20, is repealed and the following enacted in its place:

§858-A. Counting procedure for absentee ballots

The procedure for processing absentee ballots for use with electronic voting systems is the same as for processing absentee ballots as provided in section 759.'

Further amend the bill by inserting after section 108 the following:

'Sec. 109. 21-A MRSA §862 is enacted to read:

§862. Punch card voting systems

Punch card voting systems are governed by the following provisions:

1. Ballot labels. The Secretary of State shall furnish all ballot materials for all elections except municipal elections.

A. The titles of offices and the names of candidates on ballot labels may be arranged in vertical columns or in a series of separate pages. The title of office with a statement of the number of candidates to be voted for must be printed above or at the side of the names of the candidates for that office. The names of candidates must be printed in the order provided by law and, in general elections, the party designation of each candidate, which may be abbreviated, must be printed following that candidate's name. When there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label must be clearly marked indicating that the list of candidates is continued on the following column or page and, so far as possible, the same number of names must be printed on each column or page. Arrows may be used to indicate the place to vote for each candidate and on each issue to be voted on.

B. The different parts of the ballot, such as partisan, nonpartisan and issues to be voted on, must be prominently indicated on the ballot labels and, if practicable, each part must be placed on a separate page or pages. If 2 or more elections are held on the same day, the ballot labels must be clearly marked to indicate the ballot for each election and, if practicable, the ballot labels for each election must be placed upon separate pages and labels of a different color or tint may be used for each election.

2. Preparation for elections The municipal clerk shall perform the following duties in preparing for an election.

A. Ballot cards must be of the size, design and stock suitable for processing by automatic data processing machines. In primary elections, the ballot cards of each political party must be distinctly marked or must be a different color or tint so that the ballot cards of each political party are readily distinguishable.

B. A separate write-in ballot must be provided to permit a voter to write in the title of the office and the name of the person or persons for whom that voter wishes to vote.

2 C. Unless the voting device enables a voter to mark that
3 voter's choices in secret, the clerk must provide a
4 sufficient number of voting booths for each voting district
5 or precinct that allow a voter to mark that voter's ballot
6 in secret.

7 3. Delivery of ballots or ballot cards to the counting
8 center. The precinct election officials shall prepare a report
9 of the number of voters who have voted as indicated by the
10 incoming voting list and shall place the original copy of this
11 report in the ballot box or ballot card container for delivery to
12 the counting center. The ballot box or ballot card container
13 must be sealed so that no additional ballots or ballot cards may
14 be deposited or removed. The duplicate copy of the report must
15 be returned to the municipal clerk with other records. The clerk
16 shall make arrangements to have the voted ballots or ballot cards
17 of designated polling places picked up at the polling places and
18 delivered to the counting center by authorized election officials
19 or police officers.

20 4. Proceedings at the counting center. All proceedings at
21 the counting center are under the direction of the municipal
22 clerk and must be conducted in the following manner.

23 A. The count must be conducted under the observation of the
24 public but no persons except those authorized may touch any
25 ballot or ballot card.

26 B. All persons who are engaged in processing and counting
27 the ballots must be deputized and take an oath that they
28 will faithfully perform their assigned duties.

29 C. If it appears that any ballot card is damaged or
30 defective so that it can not properly be counted by the
31 automatic tabulating equipment, a true duplicate copy must
32 be made and substituted for the damaged ballot card or the
33 card may be tabulated manually. All duplicate ballot cards
34 must be clearly labeled "duplicate" and must bear a serial
35 number that must be recorded on the damaged or defective
36 ballot card.

37 D. When the count is completed, the programs, test
38 materials, ballots and ballot cards must be sealed and
39 retained as provided in section 23.

40 Other provisions of law under this article that are not
41 inconsistent with the use of punch card voting systems apply to
42 all elections in which a punch card voting system is used.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

The additional costs to implement the procedural changes in this legislation can be absorbed by the Department of the Secretary of State utilizing existing budgeted resources.'

STATEMENT OF FACT

This amendment:

1. Prohibits the municipal clerk from serving as a member or alternate member of the registration appeals board;
2. Requires that petitions forming a new party be verified by a circulator of those petitions and certified by the registrar in the same manner as other petitions filed with the Secretary of State;
3. Clarifies that the clerk may certify petitions in the absence of, or at the request of, the registrar;
4. Requires that candidates for races who qualify through nomination by petition rather than through the primary system must meet the same filing deadlines as party candidates;
5. Clarifies the role of clerk as the supervisor of elections;
6. Requires that the additional party workers be permitted at the polling place if there is sufficient space;
7. Requires that the voter believe that the voter will be unable to cast a ballot at the polls on election day to be eligible to vote an absentee ballot;
8. Clarifies that advertising is prohibited in the clerk's office during the time absentee balloting is being conducted;
9. Clarifies the procedures for processing absentee ballots prior to the close of the polls;
10. Clarifies the procedures for processing absentee ballots at a central location;

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- 2 11. Removes a proposed new section that dealt with spoiled
ballots; and
- 4
- 6 12. Provides governing provisions for punch card voting
systems.