

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

No. 1700

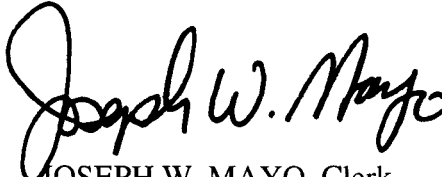
H.P. 1240

House of Representatives, January 11, 1996

**An Act to Allow the Removal from Public Office of Certain Elected
County Officials.**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative BUNKER of Kossuth Township.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** current law contains inconsistent provisions and in
some cases no provisions for filling vacancies in the county
offices of judge of probate, register of probate, county
8 commissioner, county treasurer, sheriff and register of deeds; and

10 **Whereas,** vacancies currently exist in certain of those
offices that cause serious problems for the conduct of county
12 business; and

14 **Whereas,** immediate amendment of existing law is necessary to
provide for the filling of vacancies in county offices; and

16
18 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
20 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

24 **Sec. 1. 4 MRSA §301, first ¶,** as amended by PL 1995, c. 245,
26 §1, is further amended to read:

28 Judges of probate are elected or appointed as provided in
the Constitution of Maine. Only attorneys at law admitted to the
30 general practice of law in this State and resident in this State
may be elected or appointed as judges of probate. Their election
32 is effected and determined as is provided respecting county
commissioners; and they enter upon the discharge of their duties
34 on the first day of January following their election; but, when
appointed to fill vacancies, their terms commence on their
36 appointment. Vacancies caused by death, resignation, removal
from the county, permanent incapacity or any other reason must be
filled as provided in the Constitution of Maine. In the case of
38 a vacancy in the term of a judge of probate who was nominated by
primary election before the general election, the judge of
probate appointed by the Governor to fill the vacancy until a
40 successor is chosen at election must be enrolled in the same
political party as the judge of probate whose term is vacant. In
42 making the appointment, the Governor shall choose from any
recommendations submitted to the Governor by the county committee
44 of the political party from which the appointment is to be made.
46

48 **Sec. 2. 18-A MRSA §1-501, first ¶,** as amended by PL 1995, c.
245, §2, is further amended to read:
50

2 Registers of probate are elected or appointed as provided in
the Constitution of Maine. Their election is effected and
4 determined as is provided respecting county commissioners by
Title 30-A, chapter 1, subchapter II, and they enter upon the
6 discharge of their duties on the first day of January following
their election; but the term of those appointed to fill vacancies
8 commences immediately. All registers, before acting, shall give
bond to the treasurer of their county with sufficient sureties in
10 the sum of \$2,500, except that this sum must be \$10,000 for
Cumberland County. Every register, having executed such bond,
12 shall file it in the office of the clerk of the county
commissioners of that register's county, to be presented to them
14 at their next meeting for approval. After the bond has been so
approved, the clerk shall record it and certify the fact thereon,
16 and retaining a copy thereof, deliver the original to the
register, who shall deliver it to the treasurer of the county
18 within 10 days after its approval, to be filed in the treasurer's
office. Vacancies caused by death, resignation, removal from the
20 county, permanent incapacity or any other reason must be filled
as provided in the Constitution of Maine. In the case of a
22 vacancy in the term of a register of probate who was nominated by
primary election before the general election, the register of
24 probate appointed by the Governor to fill the vacancy until a
successor is chosen at election must be enrolled in the same
political party as the register of probate whose term is vacant.
26 In making the appointment, the Governor shall choose from any
recommendations submitted to the Governor by the county committee
28 of the political party from which the appointment is to be made.

30 **Sec. 3. 30-A MRSA §63, first ¶**, as amended by PL 1989, c. 104,
Pt. C, §§8 and 10, is further amended to read:

32

34 When no choice is effected or a vacancy happens in the
office of county commissioner by death, resignation, removal from
36 the county, permanent incapacity or for any other reason, the
Governor shall appoint a person to fill the vacancy. That person
shall hold office until the first day of January following the
38 next biennial election at which a person ~~shall-be~~ is elected to
fill the office.

40

42 **Sec. 4. 30-A MRSA §151, sub-§3**, as amended by PL 1995, c. 245,
§4, is further amended to read:

44 **3. Vacancy.** If a person chosen treasurer as provided in
subsection 1 declines to accept or a vacancy occurs by reason of
46 death, resignation, removal from the county, permanent incapacity
or for any other reason, the Governor may appoint a suitable
48 resident of the county to serve as treasurer. When that person
has accepted the office, provided a bond and been sworn, that
50 person is treasurer until the first day of January following the

2 next biennial election, at which election a treasurer must be
3 chosen for the remainder of the term, if any; but, in any event,
4 that person holds office until another is chosen and qualified.

5
6 A. In the case of a vacancy in the term of a treasurer who
7 was nominated by primary election before the general
8 election, the treasurer appointed by the Governor must be
9 enrolled in the same political party as the treasurer whose
10 term is vacant. In making the appointment, the Governor
11 shall choose from any recommendations submitted to the
12 Governor by the county committee of the political party from
13 which the appointment is to be made.

14 **Sec. 5. 30-A MRSA §371**, as repealed by PL 1995, c. 156, §1
15 and as amended by c. 245, §6, is repealed.

16 **Sec. 6. 30-A MRSA §371-A**, as enacted by PL 1995, c. 156, §2,
17 is repealed.

18
19 **Sec. 7. 30-A MRSA §371-B** is enacted to read:

20
21 **§371-B. Selection; vacancies; qualifications**

22
23 **1. Manner of election or appointment.** Sheriffs are elected
24 or appointed and hold their offices according to the Constitution
25 of Maine. Their election must be conducted and determined as is
26 provided for county commissioners. Sheriffs take office on the
27 first day of January following their election.

28
29 **2. Filling vacancies.** Vacancies caused by death,
30 resignation, removal from the county, permanent incapacity or any
31 other reason must be filled as provided in the Constitution of
32 Maine. In the case of a vacancy in the term of a sheriff who was
33 nominated by primary election before the general election, the
34 sheriff appointed by the Governor to fill the vacancy until a
35 successor is chosen at election must be enrolled in the same
36 political party as the sheriff whose term is vacant. In making
37 the appointment, the Governor shall choose from any
38 recommendations submitted to the Governor by the county committee
39 of the political party from which the appointment is to be made.

40
41 **3. Minimum qualifications for officers.** A person may not
42 be appointed to the office of sheriff or be a candidate for
43 election to the office of sheriff or serve as sheriff of any
44 county in the State unless the candidate meets the following
45 qualifications:

46
47 **A. The candidate attests to the Law Enforcement Code of**
48 **Ethics;**

49
50

