

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1998

Legislative Document

No. 37

H.P. 28

House of Representatives, December 31, 1998

An Act Providing for a Vote of Confidence before a Judge Is Eligible for Reappointment.

Received by the Clerk of the House on December 29, 1998. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative MARTIN of Eagle Lake.

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

4 **Sec. 1. 4 MRSA §101-B is enacted to read:**

6 **§101-B. Reappointment**

8 1. Advisory referendum. At the end of the 5th year of a
10 Superior Court Justice's term, the Secretary of State shall
12 conduct an advisory referendum election in the county or counties
14 in which the justice has sat in Superior Court during the
previous 5 years on whether the justice should be reappointed.
If the result of the election is in the negative, the Governor
may not reappoint the justice. The Governor is not bound by an
affirmative vote.

16 2. Rules. The Secretary of State, in consultation with the
18 Chief Justice of the Supreme Judicial Court, shall adopt rules to
20 carry out this section consistent with election procedures in
22 Title 21-A. Rules adopted under this section are routine
technical rules as defined in Title 5, chapter 375, subchapter
II-A.

24 **Sec. 2. 4 MRSA §157, sub-§1, ¶A, as amended by PL 1997, c. 10,**
26 **§1, is further amended to read:**

28 A. The Governor, subject to review by the joint standing
30 committee of the Legislature having jurisdiction over
32 judiciary matters and to confirmation by the Legislature,
34 shall appoint to the District Court 27 judges. At least one
36 judge must be appointed from each district who is a resident
38 of a county in which the district lies, except that in
District 3 there must be 2 judges appointed who are
residents of a county in which the district lies; in
District 6 there must be 2 judges appointed who are
residents of a county in which the district lies; and in
District 9 there must be 2 judges appointed who are
residents of a county in which the district lies. Each
District Court Judge has a term of office of 7 years.

40 To be eligible for appointment as a District Court Judge, a
42 person must be a member of the bar of the State. The term
44 "District Court Judge" includes the Chief Judge and Deputy
Chief Judge.

46 **Sec. 3. 4 MRSA §157, sub-§1, ¶C is enacted to read:**

48 C. At the end of the 5th year of a District Court Judge's
50 term, the Secretary of State shall conduct an advisory
referendum election in the judicial district or districts in
which the judge has sat in District Court during the

2 previous 5 years on whether the judge should be
3 reappointed. If the result of the election is in the
4 negative, the Governor may not reappoint the judge. The
5 Governor is not bound by an affirmative vote.

6 The Secretary of State, in consultation with the Chief
7 Justice of the Supreme Judicial Court, shall adopt rules to
8 carry out this paragraph consistent with election procedures
9 in Title 21-A. Rules adopted under this paragraph are
10 routine technical rules as defined in Title 5, chapter 375,
11 subchapter II-A.

12

14

SUMMARY

16

17 This bill requires an advisory vote prior to the
18 reappointment of a District Court Judge or a Superior Court
19 Justice. The Governor may not reappoint the judge or justice if
20 the vote is in the negative. If the vote supports the
21 reappointment of the judge or justice, the Governor is not
22 required to make that reappointment.

22

23 For Superior Court Justices, the election must be held in
24 the county or counties in which the justice has sat in Superior
25 Court during the previous 5 years. The election concerning a
26 District Court Judge must be held in the judicial district or
27 districts in which the judge sat in District Court during the
28 previous 5 years.

30

31 The Secretary of State shall conduct the election. The
32 Secretary of State, in consultation with the Chief Justice of the
33 Supreme Judicial Court, shall adopt rules consistent with the
34 Maine Revised Statutes, Title 21-A to carry out the elections.