

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 717

H.P. 510

House of Representatives, January 26, 1999

An Act to Amend the Election Laws.

Submitted by the Secretary of State pursuant to Joint Rule 204.
Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative TUTTLE of Sanford.
Cosponsored by Senator DAGGETT of Kennebec and
Representatives: CHIZMAR of Lisbon, GAGNE of Buckfield, LABRECQUE of Gorham.

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

2
4 **Sec. 1. 21-A MRSA §1, sub-§51**, as enacted by PL 1985, c. 161, §6, is amended to read:

6 **51. Write-in candidate.** "Write-in candidate" means a
8 person whose name does not appear on the ballot under the office
10 designation to which a voter may wish to elect him the candidate and who has filed a declaration to be a write-in candidate pursuant to section 722-A.

12 **Sec. 2. 21-A MRSA §101, sub-§2**, as amended by PL 1997, c. 436, §15, is further amended to read:

14 **2. Term of office.** The registrar shall serve for 2 years
16 and until a successor is appointed and sworn. If the municipal
18 clerk is appointed to serve as registrar, the term of the registrar ~~is the same as the term of the clerk~~ ends when the term of the clerk ends, if sooner than 2 years.

20 **Sec. 3. 21-A MRSA §103, sub-§2**, as amended by PL 1995, c. 459, §7, is repealed.

24 **Sec. 4. 21-A MRSA §121, sub-§1-A**, as amended by PL 1997, c. 436, §22, is further amended to read:

26 **1-A. Identification and proof.** Registration applications
28 taken by outside agencies must be transferred to the Secretary of
30 State within 5 days of receipt. An applicant who attempts to
32 register within 20 days of an election must be advised that the
34 registrar might not receive the application before that election,
36 but that the applicant may register in person before or on
38 election day.

40 Registration applications received by the Secretary of State from
42 outside agencies 21 days or more before an election must be
44 transferred to the appropriate registrar's office within 10 days
46 of receipt. Registration applications received by the Secretary
48 of State from outside agencies 20 days or less before an election
50 must be transferred to the appropriate registrar's office within 5 days of receipt. Registration applications by mail or by a 3rd person must be received in the registrar's office by the close of business ~~10 on the 10th~~ business days day before election day in order for persons to appear on the list of registered voters for that election. If the registrar's office is not open on that day, the registrar must accept applications by mail that are received on the next day the registrar's office is open.

A person who registers during the ~~10~~ 9 business days before election day or on election day shall register in person and show

2 proof of identity and residency. If satisfactory proof of
identity and residency can not be provided to the registrar or
4 deputy, the person's name is placed on the voting list and the
person casts a challenged ballot.

6 **Sec. 5. 21-A MRSA §129, sub-§2, ¶A**, as amended by PL 1997, c.
436, §27, is further amended to read:

8
10 A. In a municipality ~~which~~ that has more than one voting
district, if a voter has changed the voter's address and
12 votes absentee after the close of registration, the voter
must send a written notice of the voter's new address along
14 with the voter's absentee application notifying the ~~board-of~~
~~registration~~ registrar of the voter's new address. A
16 certificate containing the voter's name and new address must
be directed to the warden of the voter's new voting place to
18 be attached to the incoming voting list on election day.

20 **Sec. 6. 21-A MRSA §145, sub-§1**, as amended by PL 1997, c. 436,
§32, is further amended to read:

22 **1. Candidates for nomination by nomination petition.** If
enrolled, candidates for nomination by nomination petition must
24 withdraw their enrollment by on or before March 1st of that
election year.

26
28 **Sec. 7. 21-A MRSA §163**, as amended by PL 1995, c. 459, §19,
is further amended to read:

30 **§163. Appeal**

32 In a town that does not have a registration appeals board,
if a person is aggrieved by the decision of the registrar of
34 voters to remove a name from the voting list or to refuse to
place it on the voting list, the person may appeal in writing to
36 the municipal officers of a municipality by filing a complaint.
The municipal officers shall immediately fix a time and place for
38 a prompt hearing. After hearing, the municipal officers may
affirm, modify or reverse the decision of the registrar of
40 voters. The aggrieved person may appeal the decision of the
municipal officers to the ~~District~~ Superior Court in accordance
42 with Rule 80B of the Rules of Civil Procedure.

44 **Sec. 8. 21-A MRSA §303, sub-§4**, as enacted by PL 1985, c. 161,
§6, is amended to read:

46
48 **4. Municipal caucuses.** The proposed party must conduct
municipal caucuses in at least one municipality in each of the 16
counties during that election year as prescribed in Article II.
50 The ~~chairman~~ chair of the municipal committee or a resident voter

in the municipality must file a copy of the notice required by section 311, subsection 3 with the Secretary of State, before 5 p.m. on ~~April-15th~~ March 20th.

Sec. 9. 21-A MRSA §353, as amended by PL 1995, c. 459, §25, is further amended to read:

§353. Qualification of candidate for nomination by petition

A person who seeks nomination by petition qualifies by filing a nomination petition and consent as provided in sections 354 and 355. If enrolled, the person must also withdraw enrollment in a party ~~prior--to~~ on or before March 1st to be eligible to file a petition as a candidate in that election year, as provided in section 145. The registrar, or clerk at the request or upon the absence of the registrar, in the candidate's municipality of residence must certify to that fact on the petition.

Sec. 10. 21-A MRSA §355, sub-§3, as amended by PL 1997, c. 436, §51, is further amended to read:

3. Qualifications declared. The consent must contain a declaration of the candidate's place of residence and the fact that the candidate has not been enrolled in a party qualified to participate in a primary or general election ~~as-ef~~ on or before March 1st of that election year and that the candidate meets the qualifications of the office the candidate seeks. The candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If, pursuant to the challenge procedures in section 356, any part of the declaration is found to be false by the Secretary of State, the consent and the nomination petition are void.

A. Candidates for the office of county charter commission need not verify by oath or affirmation that they are not enrolled in a party.

Sec. 11. 21-A MRSA §371, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

If a candidate for nomination dies, withdraws at least 60 days before the primary or becomes disqualified after having filed ~~his~~ the candidate's primary petition, so that a party has fewer candidates than there are offices to be filled, the vacancy may be filled ~~as--follows~~ by a political committee pursuant to section 363. The Secretary of State shall notify the Governor who shall issue a proclamation of vacancy pursuant to section 362.

2 **Sec. 12. 21-A MRSA §371, sub-§§1 and 2**, as enacted by PL 1985,
c. 161, §6, are repealed.

4 **Sec. 13. 21-A MRSA §375, sub-§2**, as enacted by PL 1985, c.
6 161, §6, is amended to read:

8 **2. Candidate for Vice President; death; withdrawal;
disqualification.** If a candidate for Vice President who has been
10 nominated by petition under section 354, subsection 1, paragraph
B, dies, withdraws at least 60 days before the election or
12 becomes disqualified, the vacancy may be filled by a new
vice-presidential candidate, if the following conditions are met:

14 A. Written resignation is filed with the Secretary of State
16 by the previous vice-presidential candidate, if the mental
and physical condition of the candidate allows;

18 B. Written consent is filed with the Secretary of State by
20 the new vice-presidential candidate;

22 C. Written acceptance of the new vice-presidential
candidate is filed with the Secretary of State by the
24 presidential candidate; and

26 D. Written acceptance of the new vice-presidential
candidate is filed with the Secretary of State by each of
28 the presidential electors.

30 **Sec. 14. 21-A MRSA §384, sub-§1**, as enacted by PL 1985, c.
161, §6, is repealed.

32 **Sec. 15. 21-A MRSA §503, sub-§2, ¶C**, as repealed and replaced
34 by PL 1995, c. 459, §33, is amended to read:

36 C. Notwithstanding subsection 1, the municipal officers may
also consider persons who are 17 years of age to serve as
38 student election clerks for a specific election. ~~A student
election clerk may not assist a voter unless the voter
40 specifically requests assistance from the student election
clerk.~~ Student election clerks may be appointed to fill
42 vacancies in the office of election clerk as provided in
subsection 5.

44 **Sec. 16. 21-A MRSA §631, sub-§1**, as enacted by PL 1985, c.
46 161, §6, is amended to read:

48 **1. Procedure.** The municipal officers may divide a town or
ward into convenient voting districts after public notice and
50 hearing held at least 60 90 days before any election. After the

2 hearing, the municipal officers must prepare a certificate
3 defining the limits of each district. They must file the
4 certificate with the clerk who shall record it. The clerk shall
5 immediately file an attested copy of the certificate with the
6 Secretary of State. The clerk shall post an attested copy of the
7 certificate in a conspicuous, public place in the town or ward,
8 and shall publish it in at least one newspaper having general
9 circulation in the municipality at least 30 days before election
10 day. ~~The clerk shall file an attested copy of the certificate~~
11 ~~with the Secretary of State.~~ Voting districts, once established,
12 may be consolidated into a lesser number of districts by
13 following the same procedure. Voting districts may be
14 established or consolidated under this section for all or only
15 certain classes of elections. If the municipal officers
16 determine that there is no building within a voting district
17 ~~which that~~ is suitable for a voting place, as described in
18 section 627, the municipal officers may, subject to the approval
19 of the Secretary of State, establish a voting place outside the
20 voting district in a suitable building ~~which that~~ is as close as
21 possible to the voting district and as convenient as possible to
22 the voters of the voting district.

23 **Sec. 17. 21-A MRSA §681, sub-§3, ¶B,** as amended by PL 1993, c.
24 33, §1, is further amended to read:

25 B. If a voter is accompanied by a child of ~~12~~ 17 years of
26 age or younger, the child may enter the voting booth with
27 the voter.
28

29 **Sec. 18. 21-A MRSA §698, sub-§4,** as enacted by PL 1985, c.
30 161, §6, is amended to read:

31 **4. Ballots and lists returned.** The warden shall deliver
32 the ballots and lists to the clerk immediately upon conclusion of
33 the ballot count. In a municipality that has an island voting
34 district, the warden must deliver the ballots and lists within 24
35 hours after the polls have closed.
36

37 **Sec. 19. 21-A MRSA §722, sub-§1,** as amended by PL 1997, c.
38 436, §104, is repealed and the following enacted in its place:

39 **1. How tabulated.** The Secretary of State shall tabulate
40 all votes that appear by an election return to have been cast for
41 a candidate whose name appeared on the ballot. All write-in
42 candidates, as defined in section 1, subsection 51, receiving
43 less than 5% of the votes cast for that office must be titled
44 "others" when the tabulation is processed.
45

46 **Sec. 20. 21-A MRSA §722-A** is enacted to read:
47
48
49
50

§722-A. Determination of write-in candidate

2
3 To be considered a valid write-in candidate, a person must
4 file a declaration of write-in candidacy with the Secretary of
5 State, on a form approved by the Secretary of State, either
6 before the election or no later than 3 business days after the
7 election. The candidate must meet all the other qualifications
8 for that office.

10 **Sec. 21. 21-A MRSA §723, sub-§1**, as amended by PL 1991, c.
11 244, is further amended to read:

12
13 **1. Primary election.** In a primary election, the person who
14 receives a plurality of the votes cast for nomination to any
15 office is nominated for that office, except for write-in
16 candidates under paragraph A and section 722-A.

17
18 A. A person who has not qualified as a candidate for
19 nomination by primary election by filing a petition and
20 consent under sections 335 and 336, but who fulfills the
21 other qualifications under section 334, may be nominated at
22 the primary election if that person receives a number of
23 valid write-in votes equal to at least twice the minimum
24 number of signatures required under section 335, subsection
25 5, on a primary petition for a candidate for that office.

26
27 (1) The Secretary of State shall send notice of
28 nomination to a write-in candidate by certified mail,
29 return receipt requested. For purposes of this
30 paragraph, the notice is deemed given on the date the
31 write-in candidate signs the receipt, or if the notice
32 is undeliverable, the date the post office last
33 attempts to deliver it. If the candidate fails to file
34 a written acceptance with the Secretary of State within
35 15 days after receiving the notice, the candidate is
36 disqualified and the candidate's name may not be
37 printed on the general election ballot.

38
39 B. The Secretary of State shall immediately certify by mail
40 the nomination of each person nominated by the primary
41 election.

42
43 **Sec. 22. 21-A MRSA §723, sub-§2**, as enacted by PL 1985, c.
44 161, §6, is amended to read:

45
46 **2. Other elections.** In any other election, the person who
47 receives a plurality of the votes cast for election to any office
48 is elected to that office, except that write-in candidates must
49 also comply with section 722-A.

50

2 **Sec. 23. 21-A MRSA §737-A, first ¶**, as enacted by PL 1993, c.
473, §31 and affected by §46, is amended to read:

4 For the purposes of this section, a candidate may also be a
6 write-in candidate who has met the qualifications of section
722-A. If, after an initial tally of the ballots, the margin
8 between the number of votes cast for the leading candidate and
the number of votes cast for the 2nd-place candidate is less than
1% of the total number of votes cast in that race, a recount is
10 presumed necessary.

12 **Sec. 24. 21-A MRSA §737-A, 4th ¶**, as amended by PL 1995, c.
14 459, §67, is further amended to read:

16 A losing candidate in any election who desires a recount
must file with the Secretary of State a written request for a
18 recount within 7 5 business days after the election. The recount
is held under the supervision of the Secretary of State, who
20 shall allow the candidate's representatives or counsel to recount
the ballots. The candidate may not act as a counter of ballots.

22 **Sec. 25. 21-A MRSA §1003, sub-§3**, as enacted by PL 1985, c.
24 161, §6, is amended to read:

26 **3. State Auditor.** The State Auditor ~~and the Secretary of~~
State shall assist the commission in making investigations and in
28 other phases of the commission's duties under this chapter, as
requested by the commission, and ~~shall have~~ has all necessary
30 powers to carry out these responsibilities.

32 **Sec. 26. 21-A MRSA §1020-A, sub-§7**, as corrected by RR 1995,
c. 1, §10, is amended to read:

34 **7. Final notice of penalty.** After a commission meeting,
36 notice of the commission's final determination and the penalty,
if any, imposed pursuant to this subchapter must be sent to the
candidate, ~~and the treasurer and the Secretary of State.~~

38 If no determination is requested, the commission staff shall
40 calculate the penalty as prescribed in subsection 4 and shall
mail final notice of the penalty to the candidate and treasurer.
42 A detailed summary of all notices must be provided to the
commission ~~and to the Secretary of State.~~

44 **Sec. 27. 21-A MRSA §1020-A, sub-§10**, as enacted by PL 1995, c.
46 483, §15, is amended to read:

48 **10. Enforcement.** The Secretary-of-State commission staff
has the ~~initial~~ responsibility for collecting the full amount of
50 any penalty ~~within 30 days after receiving notice of the penalty~~

2 ~~from the commission. The Secretary of State~~ and has all
4 necessary powers to carry out this responsibility. Failure to
6 pay the full amount of any penalty levied under this subchapter
8 is a civil violation by the candidate, treasurer, political party
10 or other person whose campaign finance activities are required by
12 this subchapter to be reported. Thirty days after ~~receiving~~
14 issuing the notice of the penalty, the ~~Secretary of State~~
16 commission shall report to the Attorney General the name of any
18 person who has failed to pay the full amount of any penalty. The
20 Attorney General shall enforce the violation in a civil action to
22 collect the full outstanding amount of the penalty. This action
24 must be brought in the Superior Court for Kennebec County or the
26 District Court, 7th District, Division of Southern Kennebec.

28 **Sec. 28. 21-A MRSA §1062-A, sub-§§6 and 9, as enacted by PL**
30 **1995, c. 483, §21, are amended to read:**

32 **6. Final notice of penalty.** After a commission meeting,
34 notice of the final determination of the commission and the
36 penalty, if any, imposed pursuant to this subchapter must be sent
38 to the principal officer, and the treasurer of the political
40 action committee ~~and the Secretary of State.~~

42 If no determination is requested, the commission staff shall
44 calculate the penalty based on the provision of subsection 3 and
46 shall mail final notice of the penalty to the principal officer
48 and to the treasurer of the political action committee. A
detailed summary of all notices must be provided to the
commission ~~and to the Secretary of State.~~

50 **9. Enforcement.** The ~~Secretary of State~~ commission staff
52 has the ~~initial~~ responsibility for collecting the full amount of
54 any penalty ~~within 30 days after receiving notice of that penalty~~
56 ~~from the commission. The Secretary of State~~ and has all
58 necessary powers to carry out this responsibility. Failure to
60 pay the full amount of any penalty levied under this subchapter
62 is a civil violation by the political action committee and its
64 treasurer. Thirty days after ~~receiving~~ issuing the notice of
66 penalty, the ~~Secretary of State~~ commission shall report to the
68 Attorney General the name of any political action committee,
70 along with the name of its treasurer, that has failed to pay the
72 full amount of any penalty. The Attorney General shall enforce
74 the violation in a civil action to collect the full outstanding
76 amount of the penalty. This action must be brought in the
78 Superior Court for Kennebec County or the District Court, 7th
District, Division of Southern Kennebec.

SUMMARY

2

4 This bill changes the definition of a write-in candidate and
6 requires that the candidate file a declaration of write-in
8 candidacy with the Secretary of State in order to be considered a
10 valid write-in candidate and be included in the election
12 tabulation. The bill clarifies the term of office for a
14 registrar who is also a municipal clerk. The bill requires that
16 a candidate who wishes to withdraw, for reason other than death
18 or disqualification, must do so at least 60 days before the
20 primary in order to be allowed to replace the candidate. The
22 bill also allows student election clerks to be appointed to fill
 a vacancy in the office of election clerk. The bill moves the
 deadline for a municipality to hold a hearing on consolidating or
 establishing new voting districts from 60 to 90 days before the
 election. The bill also changes the deadline for requesting a
 recount from 7 business days to 5 business days after the
 election. The bill removes the Secretary of State's
 responsibility for assisting the Commission on Governmental
 Ethics and Campaign Practices with its duties under the Maine
 Revised Statutes, Title 21-A. The bill makes other technical
 changes that correct inconsistencies with other parts of the laws.