

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1140

H.P. 843

House of Representatives, March 4, 2003

An Act To Provide for the Appointment of County Treasurers, Registers of Deeds and District Attorneys

Reference to the Committee on State and Local Government suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BULL of Freeport.
Cosponsored by Representative BARSTOW of Gorham, Senator MAYO of Sagadahoc and
Representative: BROWN of South Berwick.

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

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Sec. 1. 30-A MRSA §2, sub-§1-B, ¶A, as repealed and replaced by PL 1997, c. 721, §1 and affected by §2, is amended to read:

A. Androscoggin County:

| | |
|-------------------------------------|-------------------|
| (1) Commissioners | |
| (a) Chair | \$6,536 |
| (b) Members | 5,595 |
| (2) -- Treasurer | 21,007 |
| (3) Sheriff | 33,455 |
| (4) Judge of Probate | 12,689 |
| (5) Register of Probate | 10,712 |
| (6) -- Register of Deeds | 27,495 |

Sec. 2. 30-A MRSA §2, sub-§1-B, ¶B, as repealed and replaced by PL 2001, c. 161, §1 and affected by §2, is amended to read:

B. Kennebec County:

| | |
|-------------------------------------|-------------------|
| (1) Commissioners | |
| (a) Chair | \$8,531 |
| (b) Members | 7,967 |
| (2) -- Treasurer | 10,221 |
| (3) Sheriff | 44,753 |
| (4) Judge of Probate | 22,856 |
| (5) Register of Probate | 28,442 |
| (6) -- Register of Deeds | 30,222 |

Sec. 3. 30-A MRSA §151, as amended by PL 1995, c. 683, §5, is repealed.

2 **Sec. 4. 30-A MRSA §152**, as enacted by PL 1987, c. 737, Pt. A,
§2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c.
4 104, Pt. C, §§8 and 10, is repealed.

6 **Sec. 5. 30-A MRSA §153**, as amended by PL 1999, c. 22, §1, is
further amended to read:

8 **§153. Bond required**

10 The person ~~elected~~ appointed under section ~~152~~ 157 and
12 accepting the office of county treasurer shall give bond to the
14 county for the faithful discharge of duties in the sum ordered by
the commissioners and with such sureties as they approve in
16 writing on the bond. Surety and fidelity insurance coverage
provided by a public sector self-funded risk pool organized
pursuant to section 2253 in the sum ordered by the commissioners
is deemed to comply with the requirements of this section.

18 **Sec. 6. 30-A MRSA §154**, as enacted by PL 1987, c. 737, Pt. A,
20 §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c.
104, Pt. C, §§8 and 10, is further amended to read:

22 **§154. Salaries**

24 County treasurers shall receive annual salaries as ~~set-forth~~
26 ~~in section 2~~ established and approved by the county
commissioners. The deputy treasurer shall receive an annual
28 salary as established by the treasurer and approved by the county
commissioners.

30 **Sec. 7. 30-A MRSA §156**, as enacted by PL 1987, c. 737, Pt. A,
32 §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c.
104, Pt. C, §§8 and 10, is repealed.

34 **Sec. 8. 30-A MRSA §157** is enacted to read:

36 **§157. Appointment of county treasurer**

38 1. County commissioners to appoint. The county
40 commissioners shall appoint a county treasurer.

42 2. Term. The county treasurer appointed pursuant to
subsection 1 serves at the will of the county commissioners.

44 3. Qualifications. The county commissioners shall set the
46 professional standards and minimum qualifications for appointed
county treasurers. The county commissioners may adopt standards
48 or minimum qualifications recommended by a nationally recognized
organization of public sector financial officers. The person

2 appointed county treasurer by the county commissioners pursuant
3 to subsection 1 must meet these minimum qualifications.

4 **Sec. 9. 30-A MRSA §161**, as amended by PL 1999, c. 22, §2, is
5 further amended to read:

6 **§161. Deputy treasurers; duties**

7
8 Each county treasurer may appoint a deputy treasurer for
9 that treasurer's county, subject to the requirements of section
10 501. The deputy treasurer shall assist the treasurer in
11 performing the duties of the treasurer's office. The deputy
12 treasurer shall give bond to the county for the faithful
13 discharge of duties in the sum ordered by the county
14 commissioners and with such sureties as they approve in writing
15 on the bond, the premium of the bond to be met by the county.
16 The deputy treasurer shall act as treasurer in the event of a
17 vacancy until a treasurer is chosen and qualified under section
18 ~~151~~ 157. Surety and fidelity insurance coverage provided by a
19 public sector self-funded risk pool organized pursuant to section
20 2253 in the sum ordered by the commissioners is deemed to comply
21 with the requirements of this section.

22
23 **Sec. 10. 30-A MRSA §162**, as enacted by PL 1987, c. 737, Pt.
24 A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and
25 c. 104, Pt. C, §§8 and 10, is further amended to read:

26 **§162. Acting treasurer**

27
28 If the offices of county treasurer and deputy treasurer are
29 both vacant, the county commissioners shall appoint ~~a provisiona~~
30 an acting treasurer who shall serve until a treasurer is chosen
31 and qualified under section ~~151~~ 157. The ~~provisional~~ acting
32 treasurer has all the authority granted to treasurers under this
33 subchapter and is subject to all the requirements of this
34 subchapter.

35
36 **Sec. 11. 30-A MRSA §251**, as enacted by PL 1987, c. 737, Pt.
37 A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and
38 c. 104, Pt. C, §§8 and 10, is further amended to read:

39 **§251. Appointments; qualifications**

40
41 District attorneys shall ~~must~~ be elected appointed as
42 provided in this section. They shall enter office on the first
43 day of January following their ~~election~~ appointment.

44
45 ~~1. -- Election. -- The district attorneys shall be elected on~~
46 ~~the Tuesday following the first Monday of November in every 4th~~
47 ~~year, by the voters of the respective prosecutorial districts.~~

2 The votes shall be received, sorted, counted and declared in the
3 same manner as votes for Representatives. The names of the
4 persons voted for, the number of votes for each and the whole
5 number of ballots received shall be recorded by the clerk of each
6 municipality within the prosecutorial district. The clerk shall
7 send true copies of these names and totals, sealed and attested
8 as returns of votes for Senators, to the Secretary of State.

9 1-A. Appointment. The district attorneys must be appointed
10 by the county commissioners of the respective prosecutorial
11 districts.

12 2. **Qualifications.** Only attorneys admitted to the general
13 practice of law in this State and who reside in the prosecutorial
14 district may be elected or appointed district attorney. Removal
15 from the prosecutorial district vacates the office.

16 3. **Term of office.** The term of office for a district
17 attorney is 4 years, except when one is elected appointed to fill
18 out an unexpired term, in which case it is for the remainder of
19 the unexpired term.

20 **Sec. 12. 30-A MRSA §252,** as amended by PL 1995, c. 245, §5,
21 is further amended to read:

22 **§252. Vacancies in office**

23 A vacancy in the office of district attorney, because of
24 expiration of the term of office, death, permanent incapacity,
25 removal from office under section 257, removal from the
26 prosecutorial district, or otherwise, shall be is filled under
27 this section, except as provided in section 253.

28 1. **Vacancies caused by expiration of the term.** Vacancies
29 occurring by expiration of the term of office shall must be
30 filled by election appointment in that year as provided in
31 section 251.

32 2. **Vacancies caused by other reasons.** When no person is
33 elected or a vacancy happens in the office of district attorney,
34 other than as provided in subsection 1, the Governor county
35 commissioners of the prosecutorial districts shall appoint a
36 competent attorney, a resident of the prosecutorial district
37 affected, to serve as a substitute district attorney until the
38 first day of January following the next biennial election. At
39 that election, a person shall must be elected appointed to the
40 office of district attorney to serve for the remainder of the
41 unexpired term. When the office of district attorney becomes
42 vacant after the first day of October in the 2nd year after the
43 election of a district attorney under section 251, a new election
44 shall be held to fill the office.

2 shall--not--be--held--to--fill--the--vacancy,--but--the--substitute
district attorney shall serve for the remainder of the unexpired
4 term.

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

16 **Sec. 13. 30-A MRSA §253**, as enacted by PL 1987, c. 737, Pt.
A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and
18 c. 104, Pt. C, §§8 and 10, is further amended to read:

20 **§253. Military or naval service; substitutes**

22 Whenever a district attorney during the district attorney's
term of office in time of war, contemplated war or emergency,
24 enlists, enrolls, is called or drafted into the military service
of the United States, that district attorney is not deemed to
26 have ~~thereby~~ resigned from or abandoned the office; nor is the
district attorney removable from that office during military
28 service except that the term of office may not be held to have
been lengthened because of this section. From the time of
30 induction into service, the district attorney is regarded as on
leave of absence without pay from the office and the Governor
32 county commissioners of the prosecutorial district shall appoint
a competent attorney, a resident of the same prosecutorial
34 district, to fill the office while the district attorney is in
the federal service, but not for a longer period than the
36 remaining portion of the district attorney's term. During the
period of military or naval service, the Treasurer of State shall
38 pay to the substitute attorney a salary at the same rate as the
rate of pay of the district attorney and amounts so paid shall
40 must be deducted from the salary of the district attorney. The
attorney so appointed to fill the temporary vacancy has the title
42 of "substitute district attorney" and possesses all the rights
and powers and is subject to all the duties and obligations of
the district attorney.

44 **Sec. 14. 30-A MRSA §1352, sub-§1, ¶¶B, C and E**, as enacted by
46 PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL
1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, are further
48 amended to read:

50 B. Chapter 1, subchapter II 2, sections 61 to 82;

2 C. Chapter 1, subchapter ~~III~~ 3, sections ~~151~~ 153 to 162;

4 E. Title 33, sections ~~601~~ 603 to 608.

6 **Sec. 15. 33 MRSA §601**, as amended by PL 1995, c. 245, §7 and
c. 683, §8, is repealed.

8 **Sec. 16. 33 MRSA §602**, as amended by PL 1985, c. 614, §28, is
10 repealed.

12 **Sec. 17. 33 MRSA §604**, as amended by PL 1987, c. 737, Pt. C,
§74 and §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104,
14 Pt. C, §§8 and 10, is further amended to read:

16 **§604. Salaries**

18 Registers of deeds in the several counties shall receive
annual salaries as ~~set forth in Title 30-A, section 2~~ established
20 and approved by the county commissioners.

22 The salaries of the registers of deeds ~~shall be~~ are in full
compensation for the performance of all official duties and no
24 other fees or compensation ~~shall be~~ is allowed them. All
registers, except in the western district of Oxford County, shall
26 devote their entire time to the duties of the office. They shall
account monthly under oath to the county treasurers for all fees
28 received by them or payable to them by virtue of the office,
specifying the items, and shall pay the whole amount of the same
30 to the treasurers of their respective counties monthly by the
15th day of the following month. They may make abstracts and
32 copies from the records and furnish the same to persons calling
for them and may charge a reasonable fee for such service, but
34 ~~shall~~ may not give an opinion upon the title to real estate.

36 Registers shall photocopy each warranty or quitclaim deed
received and send the copy to the assessors of the appropriate
38 municipality within 30 days of recordation. They may charge a
reasonable fee for such service.

40 **Sec. 18. 33 MRSA §609**, as amended by PL 1989, c. 502, Pt. B,
42 §41, is further amended to read:

44 **§609. Successors may complete records and grant certificates**

46 The newly appointed ~~ex-elected~~ register or any successor
within 5 years after the original vacancy occurred shall
48 complete, compare and certify any unfinished record or
certificate required by law and make all requisite certificates
50 upon deeds and other papers recorded, which the removed

2 predecessor should have done if such records and certificates had
3 been completed by the predecessor, which certificates ~~shall--be~~
4 are as effectual in law as if made by the predecessor; for doing
5 this, the minutes made by the predecessor upon such deeds or
6 other papers and the entries made by the predecessor in the books
7 required to be kept for such purposes ~~shall--be~~ are sufficient
8 authority. If payment for such services has been made to the
9 predecessor, the newly appointed ~~ex--elected~~ register or any
10 successor ~~shall~~ must be paid for them out of the county treasury,
11 and the former register and the former register's sureties shall
12 refund such payments to the county treasury, to be recovered by a
13 civil action upon the former register's official bond.

14 **Sec. 19. 33 MRSA §612** is enacted to read:

16 **§612. Appointment of register of deeds**

18 **1. County commissioners to appoint.** The county
19 commissioners shall appoint a register of deeds.

20 **2. Term.** The register of deeds appointed pursuant to
21 subsection 1 serves at the will of the county commissioners.

22 **3. Qualifications.** The county commissioners shall set the
23 professional standards and minimum qualifications for appointed
24 registers of deeds. The person appointed register of deeds by
25 the county commissioners pursuant to subsection 1 must meet these
26 minimum qualifications.
27

30 **Sec. 20. Implementation of Act.**

32 **1. Effective date of appointments.** After the effective
33 date of this Act and upon receipt of the minimum qualifications
34 established by the county commissioners, the county commissioners
35 for each county may appoint a county treasurer and register of
36 deeds, except that the elected county treasurer or elected
37 register of deeds who is holding office on the effective date of
38 this Act completes the remainder of the elected treasurer's or
39 elected register of deeds's term of office. The elected district
40 attorney who is holding office on the effective date of this Act
41 completes the remainder of the elected district attorney's term
42 of office.

44 **2. Additional term.** Any elected county treasurer who meets
45 the minimum qualifications established under the Maine Revised
46 Statutes, Title 30-A, section 157, subsection 3 or elected
47 register of deeds who meets the minimum qualifications
48 established under Title 33, section 612, subsection 3 and who is
49 holding office on the effective date of this Act must be
50 appointed by the county commissioners for a minimum of one

2 additional 4-year term. Any district attorney who is holding
office on the effective date of this Act must be appointed by the
4 county commissioner of the respective prosecutorial district for
a minimum of one additional 4-year term.

6

8 SUMMARY

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10 This bill abolishes the positions of elected county
treasurer, elected register of deeds and elected district
12 attorney and requires that county commissioners appoint a county
treasurer, a register of deeds or district attorney at the
14 completion of the elected treasurer's, elected register of
deeds's or the elected district attorney's term of office.