

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1216

H.P. 890

House of Representatives, March 6, 2003

### An Act To Amend the Laws Regarding County Government

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BARSTOW of Gorham.  
Cosponsored by Senator MAYO of Sagadahoc and  
Representatives: BOWEN of Rockport, BULL of Freeport, DUNLAP of Old Town,  
JACKSON of Fort Kent, PINGREE of North Haven, SMITH of Monmouth, SUSLOVIC of  
Portland, Senator: GILMAN of Cumberland.

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

4           **Sec. 1. 30-A MRSA §9** is enacted to read:

6           **§9. Residency requirement**

8           To be eligible to be elected to the office of register of  
10 probate or the office of register of deeds, a person must be a  
12 resident of that county.

14           **Sec. 2. 30-A MRSA §151, sub-§1**, as enacted by PL 1987, c. 737,  
16 Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2;  
18 and c. 104, Pt. C, §§8 and 10, is further amended to read:

20           **1. Qualifications.** The county treasurer must be a resident  
22 of the county and have a bachelor's degree in accounting,  
24 business or a related field. Neither the Attorney General,  
26 district attorney, clerk of courts, sheriff of the county nor any  
28 deputy sheriff may be county treasurer.

30           **Sec. 3. 30-A MRSA §251**, 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.  
34 104, Pt. C, §§8 and 10, is further amended to read:

36           **§251. Appointment; qualifications**

38           ~~District attorneys shall be elected as provided in this~~  
40 ~~section. They shall~~ are appointed by the Attorney General and  
42 enter office on the first day of January following their the  
44 gubernatorial election.

46           ~~1. Election. The district attorneys shall be elected on~~  
48 ~~the Tuesday following the first Monday of November in every 4th~~  
50 ~~year, by the voters of the respective prosecutorial districts.~~  
52 ~~The votes shall be received, sorted, counted and declared in the~~  
54 ~~same manner as votes for Representatives. The names of the~~  
56 ~~persons voted for, the number of votes for each and the whole~~  
58 ~~number of ballots received shall be recorded by the clerk of each~~  
60 ~~municipality within the prosecutorial district. The clerk shall~~  
62 ~~send true copies of these names and totals, sealed and attested~~  
64 ~~as returns of votes for Senators, to the Secretary of State.~~

66           **2. Qualifications.** Only attorneys admitted to the general  
68 practice of law in this State and who reside in the prosecutorial  
70 district may be ~~elected or~~ appointed district attorney. Removal  
72 from the prosecutorial district vacates the office.

74           **3. Term of office.** The term of office for a district  
76 attorney is 4 years, except when one is ~~elected~~ appointed to fill

out an unexpired term, in which case it is for the remainder of the unexpired term.

**Sec. 4. 30-A MRSA §252, sub-§1**, 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. 104, Pt. C, §§8 and 10, is further amended to read:

**1. Vacancies caused by expiration of term.** Vacancies occurring by expiration of the term of office ~~shall-be~~ are filled by ~~election~~ appointment in that year as provided in section 251.

**Sec. 5. 30-A MRSA §252, sub-§2**, as amended by PL 1995, c. 245, §5, is further amended to read:

**2. Vacancies caused by other reasons.** When ~~no-person-is~~ ~~elected-or~~ a vacancy happens in the office of district attorney, other than as provided in subsection 1, the ~~Governor~~ Attorney General shall appoint a competent attorney, a resident of the prosecutorial district affected, to serve as a substitute district attorney until the first day of January following the next biennial election. At that election, a person ~~shall~~ must be ~~elected~~ appointed to the office of district attorney to serve for the remainder of the unexpired term. When the office of district attorney becomes vacant after the first day of October in the 2nd year after the ~~election~~ appointment of a district attorney under section 251, ~~a-new-election-shall-not-be-held~~ the Attorney General may not appoint a new district attorney to fill the vacancy, but the substitute district attorney shall serve for the remainder of the unexpired term.

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

**Sec. 6. 30-A MRSA §§253 and 254**, 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. 104, Pt. C, §§8 and 10, are further amended to read:

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

Whenever a district attorney during the district attorney's term of office in time of war, contemplated war or emergency, enlists, enrolls, is called or drafted into the military service

of the United States, that district attorney is not deemed  
considered to have thereby resigned from or abandoned the office;  
nor is the district attorney removable from that office during  
military service, except that the term of office may not be held  
to have been lengthened because of this section. From the time  
of induction into service, the district attorney is regarded as  
on leave of absence without pay from the office and the ~~Governor~~  
Attorney General shall appoint a competent attorney, a resident  
of the same prosecutorial district, to fill the office while the  
district attorney is in the federal service, but not for a longer  
period than the remaining portion of the district attorney's  
term. During the period of military or naval service, the  
Treasurer of State shall 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 must be deducted from the salary of the  
district attorney. The attorney so appointed to fill the  
temporary vacancy has the title of "substitute district attorney"  
and possesses all the rights and powers and is subject to all the  
duties and obligations of the district attorney.

#### **§254. Prosecutorial districts**

1. **Prosecutorial District Number 1.** There shall-be is one  
district attorney for York County, which shall-be is known as  
"Prosecutorial District Number 1." ~~The-district-attorney-shall~~  
~~be-elected-by-the-voters-of-York-County-in-the-manner-set-forth~~  
~~in-section-251.~~

2. **Prosecutorial District Number 2.** There shall-be is one  
district attorney for Cumberland County, which shall-be is known  
as "Prosecutorial District Number 2." ~~The--district--attorney~~  
~~shall-be-elected-by-the-voters-of-Cumberland-County-in-the-manner~~  
~~set-forth-in-section-251.~~

3. **Prosecutorial District Number 3.** There shall-be is one  
district attorney for Oxford, Franklin and Androscoggin Counties,  
which shall-be are known as "Prosecutorial District Number 3."  
~~The-district-attorney-shall-be-elected-by-the-voters-of-Oxford,~~  
~~Franklin-and-Androscoggin-Counties-in-the-manner-set-forth-in~~  
~~section-251.~~

4. **Prosecutorial District Number 4.** There shall-be is one  
district attorney for Kennebec and Somerset Counties, which shall  
be are known as "Prosecutorial District Number 4." ~~The-district~~  
~~attorney-shall-be-elected-by-the-voters-of-Kennebec-and-Somerset~~  
~~Counties-in-the-manner-set-forth-in-section-251.~~

5. **Prosecutorial District Number 5.** There shall-be is one  
district attorney for Penobscot and Piscataquis Counties, which  
shall-be are known as "Prosecutorial District Number 5." The

district-attorney-shall-be-elected-by-the-voters-of-Penobscot-and  
Piscataquis-Counties-in-the-manner-set-forth-in-section-251.

6. **Prosecutorial District Number 6.** There shall-be is one district attorney for Sagadahoc, Lincoln, Knox and Waldo Counties, which shall--be are known as "Prosecutorial District Number 6." ~~The-district-attorney-shall-be-elected-by-the-voters of-Sagadahoc,-Lincoln,-Knox-and-Waldo-Counties-in-the-manner-set forth-in-section-251.~~

7. **Prosecutorial District Number 7.** There shall-be is one district attorney for Hancock and Washington Counties, which shall--be are known as "Prosecutorial District Number 7." ~~The district-attorney-shall-be-elected-by-the-voters-of-Hancock-and Washington-Counties-in-the-manner-set-forth-in-section-251.~~

8. **Prosecutorial District Number 8.** There shall-be is one district attorney for Aroostook County, which shall-be is known as "Prosecutorial District Number 8." ~~The--district--attorney shall-be-elected-by-the-voters-of-Aroostook-County-in-the-manner set-forth-in-section-251.~~

**Sec. 7. 30-A MRSA §1321, sub-§§1 and 2,** 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. 104, Pt. C, §§8 and 10, is further amended to read:

1. **County commissioners.** The county commissioners may determine ~~that--the--adoption--of--a--county--charter--should--be considered--or~~ that the revision of a county charter already adopted under this chapter should be considered and, by order, provide for the establishment of a charter commission to carry out that purpose as provided in this chapter. If a county has not adopted a county charter, the county commissioners shall provide for the establishment of a charter commission for the purpose of preparing a county charter. A county must adopt a county charter by January 1, 2006.

2. **Petition by voters.** On the written petition of a number of voters equal to at least 10% of the number of votes cast in the county at the last gubernatorial election, the county commissioners shall, by order, provide for the establishment of a charter commission for the ~~preparation--or~~ revision of a county charter in the form and manner provided in this chapter.

**Sec. 8. 30-A MRSA §1321, sub-§3, ¶B,** 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. 104, Pt. C, §§8 and 10, is further amended to read:

2 B. The clerk shall prepare petition forms at the county's  
expense. The petition forms shall must be printed on paper  
4 of uniform size and may consist of as many individual sheets  
as are reasonably necessary.

6 (1) Petition forms shall must carry the following  
legend in bold lettering at the top of the face of each  
8 form.

10 "County of ...."

12 "Each of the undersigned voters respectfully requests  
14 the county commissioners to establish a charter  
commission for the purpose of revising the county  
16 charter ~~or-preparing-a-new-county-charter.~~"

18 Each signature to a petition must be in ink or other  
indelible instrument and must be followed by the  
20 residence of the voter with street and number, if any.  
No petition may contain any party or political  
22 designation.

24 (2) The clerk shall note the date of each petition  
form issued. All petitions must be filed within 120  
26 days of the date of issue or they are void.

28 (3) Each petition form shall must have printed on its  
back an affidavit to be executed by the circulator,  
30 stating that the circulator personally circulated the  
form, the number of signatures on the form, that all  
32 the signatures were signed in the circulator's  
presence, that the circulator believes them to be  
34 genuine signatures of the persons whose names they  
purport to be, that each signer has signed no more than  
36 one petition and that each signer had an opportunity to  
read the petition before signing. Before filing the  
38 petitions under subparagraph (4), the circulator shall  
submit them to the registrar of each municipality  
40 concerned for certification according to Title 21-A,  
section 354, subsection 7, paragraph B.

42 (4) Petition forms shall must be assembled as one  
44 instrument and filed at one time with the clerk. The  
clerk shall note the date of filing on the forms.

46  
48 **Sec. 9. 30-A MRSA §1321, sub-§5. ¶A.** 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. 104, Pt. C, §§8 and 10, is further amended to read:

2           A. The question to be submitted to the voters shall must be  
4           in substance as follows.

6                       "~~Shall~~ Do you favor establishing a charter commission  
8                       ~~be-established~~ for the purpose of revising the county  
                      ~~charter or-establishing-a-new-county-charter?~~"

10           **Sec. 10. 30-A MRSA §1322, sub-§6,** as amended by PL 1991, c.  
             862, §9, is further amended to read:

12           **6. Election.** When the final report is filed, the county  
14           commissioners shall order the proposed new charter or charter  
             revision to be submitted to the ~~voters of the county at the next~~  
16           ~~regular or special statewide election held~~ Legislature for final  
             approval at least 60 days after the final report is filed.

18

## SUMMARY

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22           This bill requires all counties that have not adopted a  
             county charter to adopt a charter by January 1, 2006. It also  
24           sets residency requirements for the register of probate and the  
             register of deeds and minimum qualifications for the county  
26           treasurer. It also requires that district attorneys be appointed.