

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1388

H.P. 965

House of Representatives, March 22, 2005

An Act To Amend Maine Election Law by Instituting a Statewide Vote-by-mail System

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GLYNN of South Portland.

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

2

3 **Sec. 1. 21-A MRSA §753-A, sub-§3**, as amended by PL 2003, c.
4 447, §28, is further amended to read:

6

7 **3. Request in writing.** A voter may complete an application
8 or make a written request for the voter's own ballot by mail, in
9 person or by facsimile. ~~The voter may designate an immediate~~
10 ~~family member or a 3rd person to deliver the ballot on the~~
11 ~~voter's behalf. An immediate family member of a voter may also~~
12 ~~make an application or written request for an absentee ballot for~~
13 ~~the voter.~~

14

15 A. An application or a written request for an absentee
16 ballot must be accepted by the clerk if it contains the
17 following information:

18

(1) The voter's name;

20

(2) The voter's residence address or other address
sufficient to identify the voter;

22

23 (3) The signature of the voter ~~or the voter's~~
24 ~~immediate family member who is making the application~~
25 ~~or written request. If an immediate family member is~~
26 ~~either making the application or written request or is~~
27 ~~designated in the application or written request to~~
28 ~~deliver or return the ballot to the voter, then the~~
29 ~~family relationship to the voter must also be provided;~~
30 and

32

(4) If applicable, a different address to which the
applicant requests the ballot be sent or delivered.

34

35 B. If the voter needs assistance pursuant to subsection 5,
36 then in addition to the information required in paragraph A,
37 the following information must be provided in order for the
38 application or written request to be accepted by the clerk:

40

(1) The printed name and signature of the person who
helped the voter; and

42

43 (2) A statement that the aide helped the voter by
44 either reading or signing the application, or both.

46

47 ~~C. If the voter wishes to have the ballot delivered or~~
48 ~~returned by a 3rd person, then in addition to the~~
49 ~~information required in paragraph A, the following~~
50 ~~information must be provided in order for the application or~~
51 ~~written request to be accepted by the clerk:~~

2 ~~(1)---The name of the 3rd person whom the voter has~~
3 ~~designated.---A 3rd person may only be designated in an~~
4 ~~application or written request that is signed by the~~
5 ~~voter.~~

6 **Sec. 2. 21-A MRSA §753-A, sub-§4**, as amended by PL 2003, c.
7 447, §29, is further amended to read:

10 **4. Application by telephone.** A voter may make a telephone
11 application for the voter's own ballot. ~~In this case, the voter~~
12 ~~may not designate an immediate family member or a 3rd person to~~
13 ~~deliver the ballot on the voter's behalf.~~ The clerk shall ask
14 the voter for the information required and complete the
15 application, with the exception of the voter's signature, and
16 shall write "telephone request" on the application. The clerk
17 shall also obtain the voter's birth date and write it on the
18 application. The clerk shall verify that it is the voter who is
19 requesting the ballot by confirming the voter's residence address
20 and birth date with the information in the voter's record. A
21 telephone application must be accepted by the clerk if it
22 contains the voter's name, the voter's date of birth, the voter's
23 residence address or other address sufficient to identify the
24 voter and, if applicable, a different address to which the
25 applicant requests the ballot be sent or delivered.

26 **Sec. 3. 21-A MRSA §753-B**, as amended by PL 2003, c. 447, §§30
27 and 31, is further amended to read:

30 **§753-B. Procedure for issuing absentee ballot**

32 **1. Application or written request received.** Upon receipt of
33 an application, written request or telephone application for an
34 absentee ballot that is accepted pursuant to section 753-A, the
35 clerk shall immediately issue an absentee ballot and return
36 envelope by mail or in person to the applicant ~~or to the~~
37 ~~immediate family member or to a 3rd person designated in a~~
38 ~~written application or request made by the voter.~~ The clerk
39 shall type or write in ink the name and the residence address of
40 the voter in the designated section of the return envelope.

42 **2. Restrictions on issuing ballot.** The clerk may not
43 deliver an absentee ballot to any 3rd person ~~who is a candidate~~
44 ~~or a member of a candidate's immediate family.---The clerk may not~~
45 ~~deliver to an immediate family member or to a 3rd person any~~
46 ~~absentee ballot requested by telephone.---The clerk may not issue~~
47 ~~more than 5 absentee ballots to any 3rd person designated in~~
48 ~~applications or written requests at any time.~~

2 **6. Clerk to list.** The clerk shall keep an alphabetical
list, by district, of the persons who requested or were furnished
4 absentee ballots, including the persons who voted in the presence
of the clerk under subsection 8 ~~and the persons whose ballots~~
6 ~~were issued to a 3rd person under subsection 1.~~ The clerk shall
maintain a copy of the lists required under this subsection for a
8 period of 2 years as a public record.

10 A. The list of absentee voters must include each voter's
name, residence address, voting district and party
12 affiliation; the date and manner by which the ballot was
requested, issued and received; a notation of whether the
14 application and the ballot were accepted or rejected; and a
place for the registrar to certify the voter registration
16 status of the absentee voters. The clerk must also indicate
on the list when the absentee voter is a uniformed service
18 voter or overseas voter.

20 B. The clerk shall submit this list of absentee voters to
the registrar for certification of the registration status
22 and, when applicable, the enrollment status of the voters.
The registrar shall certify the list either before or as
24 soon as possible after the ballot is issued to the voter.
The certifications must be completed before the absentee
26 ballots may be processed and cast on election day.

28 C. The clerk shall also keep a list of the ~~3rd persons~~
~~designated in applications or~~ written requests of voters
30 to whom absentee ballots are sent or delivered under subsection
1 and of the number of absentee ballots sent or delivered to
32 them. ~~This list of 3rd person ballot carriers must include~~
~~telephone numbers for contacting the 3rd persons.~~

34 D. Within 20 days after each election, the clerk shall send
36 a report to the Secretary of State stating the total number
of absentee ballots issued to absentee voters in the
38 municipality for that election. The report must further
identify the number of ballots that were issued to uniformed
40 service voters and overseas voters, respectively. For each
category of absentee voters, the report must include the
42 number of ballots that were returned by the voters and were
processed and cast in the election.

44 **7. Registration verified.** If the applicant is registered
46 and enrolled when necessary, the ballot must be sent to the
applicant. If the applicant has registered and enrolled when
48 necessary under section 155 and will attain 18 years of age on or
before the date of the election, the registrar or clerk shall so
50 certify on the application. If not, the registrar or clerk shall

2 write "not registered" or "not enrolled" on the face of the
3 application and sign the registrar's or clerk's name. Whenever
4 an application for an absentee ballot is denied, the municipal
5 clerk shall immediately notify the applicant in writing of the
6 reason for the denial.

8 **8. Absentee voting in presence of clerk.** A person who
9 wishes to vote by absentee ballot may, without completing an
10 application, vote by absentee ballot in the presence of the
11 clerk. The method of voting is otherwise as prescribed in this
12 article. After the person has voted, the clerk shall sign the
13 affidavit on the return envelope as a witness, indicate on the
14 envelope that the voter voted in the presence of a clerk and
15 ensure that the affidavit on the return envelope is properly
16 completed by the voter. For the 45 days preceding an election,
17 during the hours when the clerk's office is open and may be
18 conducting absentee voting, the display or distribution of any
19 advertising material intended to influence a voter's decision
20 regarding a candidate or ballot issue is prohibited within the
21 clerk's office and on public property within 250 feet of the
22 entrance to the clerk's office.

24 This subsection does not apply to the display or distribution of
25 any campaign advertising material on private property that is
26 within 250 feet of the entrance to the clerk's office.

28 This subsection does not apply to campaign advertising material
29 on automobiles traveling to and from the municipal office or
30 parked on municipal property while the occupants are visiting the
31 municipal office to conduct municipal business. It does not
32 prohibit a person who is at the municipal office for the purpose
33 of conducting municipal business or for absentee voting from
34 wearing a campaign button when the longest dimension of the
35 button does not exceed 3 inches.

36 **Sec. 4. 21-A MRSA §754-A, sub-§1,** as amended by PL 1999, c.
37 645, §7, is further amended to read:

39 **1. Ballot delivered to voter.** When a voter ~~ex-an-immediate~~
40 ~~family-member-of-a-voter~~ obtains a ballot from the clerk in
41 person or by mail and returns that ballot to the clerk in person
42 or by mail and receives no assistance in marking the ballot, the
43 following procedures apply.

44
45 A. The voter shall mark that ballot according to section
46 691 or 692 so that it is impossible for anyone present at
47 the time to see how the voter voted.
48

2 B. While the voter is marking the ballot, there may be no
communication between the voter and any other individual as
to the person or question for which the voter is to vote.

4
6 C. After the voter has completed marking the ballot, the
voter shall then seal the ballot in its return envelope and
complete the affidavit on the envelope. No notary or
8 witness certification is required.

10 D. The voter ~~or an immediate family member of the voter~~
shall then mail or deliver in person the sealed envelope
12 containing the voted ballot to the clerk of the municipality
of which the voter is a resident. The voter shall send or
14 deliver a completed voter registration or absentee ballot
application, if necessary, in a separate envelope by mail or
16 in person.

18 ~~E. If an immediate family member of the voter returns an~~
~~absentee ballot that was requested by the voter or another~~
20 ~~immediate family member of the voter, in writing or in~~
~~person, the clerk shall accept the ballot. The clerk shall~~
22 ~~have the immediate family member who returned the ballot~~
~~sign the application or written request and shall indicate~~
24 ~~that the ballot was returned by that person.~~

26 **Sec. 5. 21-A MRSA §754-A, sub-§2,** as amended by PL 1999, c.
645, §7, is repealed.

28 **Sec. 6. 21-A MRSA §754-A, sub-§3,** as amended by PL 1999, c.
30 645, §7, is further amended to read:

32 **3. Assistance in reading or marking ballot.** A voter who is
unable to read or mark the ballot because of the voter's physical
34 disability, illiteracy or religious faith must vote according to
the procedures in this subsection instead of the procedures in
36 subsection 1 ~~or~~ 2.

38 A. A voter who needs assistance may request another person,
other than the voter's employer or agent of that employer or
40 officer or agent of the voter's union, to assist the voter
in reading or marking the ballot.

42 B. The voter or the aide must mark the ballot in the
presence of one of the following witnesses: ~~Notary~~ notary
44 public, clerk of a municipality, clerk of courts or another
46 individual.

48 C. The voter or the aide, before marking the ballot, must
show it to the witness who must examine it to be certain it
50 is unmarked.

2 D. While the voter or the aide is marking the ballot, there
4 may be no communication between the voter and any
6 individual, other than the aide who must mark the ballot as
the voter indicates, as to the person or question for which
the voter is to vote.

8 E. The voter or the aide must mark the ballot according to
10 section 691 or 692 so that it is impossible for anyone else
12 present to see how the voter voted, then seal the ballot in
14 its return envelope. The voter, or the aide at the voter's
request, shall complete and sign the affidavit in the
presence of the witness, who shall sign the witness
certification. The aide must complete and sign the
certification for aides on the outside of the envelope.

16 F. The voter or the aide must then complete the address on
18 the envelope and mail or deliver it personally or by the 3rd
20 person who was designated in the application to the clerk of
the municipality of which the voter is a resident. The
voter must send a completed voter registration or absentee
ballot application, if necessary, in a separate envelope.

22 **Sec. 7. 21-A MRSA §756, first ¶**, as enacted by PL 1985, c. 161,
24 §6, is amended to read:

26 When the clerk receives a return envelope by mail or in
28 person apparently containing an absentee ballot, he the clerk
shall observe the following procedures.

30 **SUMMARY**

32 This bill requires a person requesting an absentee ballot to
34 request it in person or to request it by mail. It also clarifies
36 that the completed ballot may be returned in person or by mail.
38 This bill eliminates 3rd-person involvement in the absentee
ballot process.