

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 1889

H.P. 1329

House of Representatives, January 3, 2006

An Act To Amend the Election Laws

(EMERGENCY)

Submitted by the Secretary of State pursuant to Joint Rule 204.

Received by the Clerk of the House on December 28, 2005. Referred to the Committee on Legal and Veterans Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FISHER of Brewer.

Cosponsored by Representatives: PATRICK of Rumford, Speaker RICHARDSON of Brunswick, TARDY of Newport.

2 **Emergency preamble.** Whereas, acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** the Maine Revised Statutes, Title 21-A governs the
conduct of statewide elections in the State, and changes to that
law must be in place by the June 13, 2006 primary election in
8 order for the Secretary of State to properly administer these
laws and for the municipal election officials to properly conduct
10 the election; and

12 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
14 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
16 safety; now, therefore,

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

20 **Sec. 1. 21-A MRSA §1, sub-§21,** as amended by PL 2005, c. 364,
§1, is further amended to read:

22
24 **21. Incoming voting list.** "Incoming voting list" means the
list of all of the voters in a municipality that is used by
election officials at a voting place to record which voters have
26 been issued a ballot at an election. The list must include the
following information for each voter and may not include any
28 other information: name; residence address; enrollment status;
electoral district; voter status, active or inactive; voter
30 record number; designations regarding challenged ballots and
absentee ballots; and any special designations indicating
32 uniformed service voters, overseas voters or township voters. The
portion of the incoming voting list relating to Address
34 Confidentiality Program participants must be kept under seal and
excluded from public inspection. The residence address for any
36 voter whose address has been made confidential pursuant to
section 22, subsection 3, paragraph B may not be printed on the
38 incoming voting list, and the words "address is confidential"
must be printed on the list instead.

40
42 **Sec. 2. 21-A MRSA §22, sub-§3,** as amended by PL 2005, c. 364,
§2, is further amended to read:

44 **3. Confidential information.** Notwithstanding subsection 1
and Title 1, section 408, if a registered voter ~~is certified by~~
46 ~~the Secretary of State as a program participant in the Address~~
~~Confidentiality Program pursuant to Title 5, section 90-B, all~~
48 ~~records maintained by the registrar pertaining to that voter must~~
~~be kept confidential and must be excluded from public inspection~~

2 meets certain conditions, the voter's information must be kept
3 confidential as provided in this subsection.

4 A. For a voter who is certified by the Secretary of State
5 as a program participant in the Address Confidentiality
6 Program pursuant to Title 5, section 90-B, all records
7 maintained by the registrar pertaining to that voter must be
8 kept confidential and must be excluded from public
9 inspection.

10 B. For a voter who submits to the registrar a signed
11 statement that the voter has a good reason to believe that
12 the physical safety of the voter or a member of the voter's
13 immediate family residing with the voter would be
14 jeopardized if the voter's address were open to public
15 inspection, that voter's residence and mailing addresses
16 must be kept confidential and must be excluded from public
17 inspection. The remainder of the information in that
18 voter's record that is designated as public information in
19 section 196 remains a public record and may be made
20 available to the public according to the use and
21 distribution requirements provided in that section. The
22 voter's signed statement is also a public record.

23 **Sec. 3. 21-A MRSA §101, sub-§2, as repealed and replaced by PL**
24 **1999, c. 426, §3, is amended to read:**

25 **2. Appointment.** The municipal officers of each
26 municipality shall appoint in writing a qualified registrar of
27 voters by January 1st of each odd-numbered year. The registrar
28 shall serve for 2 years and until a successor is appointed and
29 sworn. The municipal clerk may be appointed to serve as
30 registrar, but the term of the clerk has no effect on the term of
31 the registrar. If the clerk is not appointed to serve as
32 registrar, the clerk must be appointed by the registrar to serve
33 as a deputy registrar and has the same authority as the registrar
34 to make determinations of voter eligibility and to perform the
35 duties of voter registration as provided in this Title.

36 **Sec. 4. 21-A MRSA §102, first ¶, as amended by PL 1995, c. 459,**
37 **§3, is further amended to read:**

38 The registrar may appoint one or more deputies, except that
39 if the registrar does not also serve as the clerk, the registrar
40 shall appoint the clerk to serve as a deputy registrar. If the
41 registrar is unavailable for a period exceeding 15 consecutive
42 days, the registrar shall appoint a deputy registrar who must be
43 available to perform the duties of the registrar. If the
44 registrar and the appointed deputy are unavailable for more than
45 15 consecutive days, the municipal clerk shall serve as registrar
46 pre-tem.

2 **Sec. 5. 21-A MRSA §102, sub-§2**, as enacted by PL 1985, c. 161,
§6, is amended to read:

4 **2. Term of office.** ~~He shall serve~~ A deputy registrar
serves at the will of the registrar, except that if the clerk is
6 a deputy registrar and the registrar leaves office, the clerk
8 becomes the registrar pro tem until a new registrar is appointed
and sworn, at which point the clerk must be appointed as a deputy
to the new registrar.

10 **Sec. 6. 21-A MRSA §153-A, sub-§3**, as enacted by PL 2005, c.
12 196, §3, is amended to read:

14 **3. Signing petitions.** Once an alternative registration
signature statement is on file with the registrar, the voter may
16 authorize any other Maine-registered voter to sign candidate
petitions and any Maine Clean Election Act forms requiring a
18 voter's signature in the presence and at the direction of the
voter, except that the individual assisting the voter may not be
20 a candidate, the circulator of the petition or form, the voter's
employer or an agent of that employer or an officer or agent of
22 the voter's union. In addition to using the voter's signature
stamp or signing for the voter, the individual assisting the
24 voter must print and sign the individual's own name and residence
address on the petition or form and attest that the individual is
26 signing on the voter's behalf. This method of signing satisfies
the requirements in this Title that voters personally sign
28 candidate petitions.

30 **Sec. 7. 21-A MRSA §156, sub-§1**, as amended by PL 2005, c. 453,
§31, is further amended to read:

32 **1. Registration and enrollment.** A township resident who
34 lives in a township for which the county commissioners have not
established a voting place as provided in section 632 may
36 register and enroll in any municipality within the applicant's
representative district or, if the applicant lives in a portion
38 of a township not easily accessible to a municipality within the
representative district, the township resident may register and
40 enroll in a more convenient municipality within or outside the
county. The township resident may register and enroll on
42 election day. The registrar shall designate the applicant as a
township voter with the letter "T" in the central voter
44 registration system and on the incoming voting list.

46 **Sec. 8. 21-A MRSA §157**, as amended by PL 1997, c. 436, §37,
is repealed.

48 **Sec. 9. 21-A MRSA §172**, as amended by PL 2005, c. 364, §5, is
50 further amended to read:

2 **§172. Voter registration file**

4 The registrar shall prepare and keep a voter registration
6 file containing the voter registration documents for each voter
8 in the central voter registration system, arranged alphabetically
10 by the last name of each voter, except that any voter certified
12 by the Secretary of State as a program participant in the Address
14 Confidentiality Program pursuant to Title 5, section 90-B must be
16 listed on voter registration documents only by the voter code
18 assigned to that voter under the program and these documents must
20 be placed at the end of the alphabetized voter file. The file
22 must contain an original, signed voter registration application
24 for each voter, with associated applications containing changes
26 of name, address or enrollment and any documentation concerning
28 these applications or the qualifications for these voters.
Information in the file pertaining to any voter certified by the
Secretary of State as a program participant in the Address
Confidentiality Program must be kept under seal and excluded from
public inspection. When a voter's registration is cancelled from
the central voter registration system, the registrar shall
indicate on the voter's registration documents the date that the
voter's registration was cancelled and retain the documents for 5
years the time period specified in section 23, either in the same
file, or in a separate file. The registrar must retain the
voter registration documents for each rejected voter in a
separate file for the time period specified in section 23.

30 **Sec. 10. 21-A MRSA §196, sub-§10** is enacted to read:

32 10. Disclosure of address. A voter's address that is
34 excluded from public inspection pursuant to section 22,
36 subsection 3, paragraph B may be made available free of charge to
a law enforcement officer or agency that makes a written request
to use the information for a bona fide law enforcement purpose or
to a person identified by a court order if directed by that order.

38 **Sec. 11. 21-A MRSA §322, sub-§2**, as amended by PL 2005, c.
40 387, §5, is further amended to read:

42 **2. State committee to report organization.** The chair and
44 the secretary of the state committee shall certify to the
46 Secretary of State ~~the platform adopted and~~ the names of the
48 party's candidates for presidential elector within 30 days after
50 the convention. The chair ~~and~~ or the secretary of the state
committee shall ~~certify to~~ provide upon request by the Secretary
of State the name ~~and~~ residence and contact information of the
chair and secretary of each any committee and of each any
committee member ~~within 20 days after their election.~~

2 **Sec. 12. 21-A MRSA §505, sub-§7**, as amended by PL 2001, c.
415, §3 and affected by §5, is further amended to read:

4 **7. Report to the Secretary of State.** Report the return of
6 votes cast and other voter registration or election information
to the Secretary of State upon request or as otherwise required
8 by this Title. The clerk shall notify the Secretary of State of
10 the name of the clerk and any deputy or assistant clerks within
10 days after the official is elected or appointed and sworn by
revising the election official's information listing within the
12 central voter registration system;

14 **Sec. 13. 21-A MRSA §606, sub-§5** is enacted to read:

16 **5. Reproducing official ballots.** It is unlawful for any
18 person to copy or reproduce an unmarked official ballot without
the express authorization of the Secretary of State.

20 **Sec. 14. 21-A MRSA §682, sub-§2**, as repealed and replaced by
PL 2003, c. 447, §22, is amended to read:

22 **2. Influence prohibited.** ~~Within--250~~ On public property
24 within 100 feet of the entrance to the voting place as well as
within the voting place itself, a person may not:

26 A. Influence another person's decision regarding a
28 candidate or ~~ballet-issue~~ question that is on the ballot for
the election that day; or

30 B. Attempt to influence another person's decision regarding
32 a candidate or ~~ballet-issue~~ question that is on the ballot
for the election that day.

34 These limitations do not prohibit a candidate from attending the
36 voting place and orally communicating with voters as long as the
candidate does not attempt to influence their vote. A candidate
38 may not state the name of the office sought or request a person's
vote.

40 **Sec. 15. 21-A MRSA §682, sub-§3**, as repealed and replaced by
PL 2003, c. 447, §22, is amended to read:

42 **3. Advertising prohibited.** A person may not display
44 advertising material; operate an advertising medium, including a
46 sound amplification device; or distribute campaign literature,
posters, palm cards, buttons, badges or stickers containing a
48 candidate's name or otherwise intending to influence the opinion
of any voter regarding a candidate or question that is on the
ballot for the election that day on any public property located
50 within 250 100 feet of the entrance to either the voting place or

2 the building in which the registrar's office is located. The
term "sound amplification device" includes, but is not limited
to, sound trucks, loudspeakers and blowhorns.

4
6 A. This subsection does not apply to advertising material
on automobiles traveling to and from the voting place. It
8 does not prohibit a person from passing out stickers at the
voting place to be pasted on the ballot at a primary
10 election. It does not prohibit a person who is at the polls
solely for the purpose of voting from wearing a campaign
12 button when the longest dimension of the button does not
exceed 3 inches.

14 B. Nonpolitical charitable activities and other
nonpolitical advertising may be allowed at the discretion of
16 the clerk if arrangements are made prior to election day.
If arrangements are not made in advance of the election day,
18 the warden may, at the warden's discretion, either allow or
prohibit nonpolitical charitable activities and other
20 nonpolitical advertising.

22 **Sec. 16. 21-A MRSA §696, sub-§2, ¶D**, as amended by PL 2005, c.
404, §3, is further amended to read:

24
26 D. If a voter writes in a name and municipality of
residence, or pastes a sticker containing the candidate's
28 name and municipality of residence in the write-in space
pursuant to section 691, but does not mark the write-in
30 indicator, that vote for that office may not be counted ~~if a
determination-of-choice-under-subsection-4-is-possible~~.

32 **Sec. 17. 21-A MRSA §698, sub-§2-A, ¶A**, as amended by PL 1995,
c. 459, §66, is further amended to read:

34
36 A. Transfer and resealing of the ballots to other
containers for permanent storage must be done ~~60--or--more~~
38 days not less than 2 months following the election. The
municipal clerk shall make the transfer in the presence of
40 one or more witnesses. The containers must be securely
sealed.

42 **Sec. 18. 21-A MRSA §753-B, sub-§6, ¶B**, as amended by PL 2003,
c. 407, §24, is repealed and the following enacted in its place:

44
46 B. The clerk creates the list of absentee voters as
required in paragraph A by marking the records of registered
48 voters in the central voter registration system. The clerk
must sign and date each official printed copy of the list of
50 absentee voters that is created for public inspection,
certifying that the list is a true and accurate list of

2 absentee voters for the applicable election. No additional
3 certification is required by the registrar of voters.

4 **Sec. 19. 21-A MRSA §753-B, sub-§8,** as enacted by PL 1999, c.
5 645, §6, is amended to read:

6 **8. Absentee voting in presence of clerk.** A person who
7 wishes to vote by absentee ballot may, without completing an
8 application, vote by absentee ballot in the presence of the
9 clerk. The method of voting is otherwise as prescribed in this
10 article. After the person has voted, the clerk shall sign the
11 affidavit on the return envelope as a witness, indicate on the
12 envelope that the voter voted in the presence of a clerk and
13 ensure that the affidavit on the return envelope is properly
14 completed by the voter. For the 45 days preceding an election,
15 during the hours when the clerk's office is open and may be
16 conducting absentee voting, the display or distribution of any
17 advertising material intended to influence a voter's decision
18 regarding a candidate or ballot-issue question on the ballot for
19 that election is prohibited within the clerk's office and on
20 public property within 250 100 feet of the entrance to the
21 building in which the clerk's office is located.
22

23 This subsection does not apply to the display or distribution of
24 any campaign advertising material on private property that is
25 within 250 100 feet of the entrance to the building in which the
26 clerk's office is located.
27

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

37 **Emergency clause.** In view of the emergency cited in the
38 preamble, this Act takes effect when approved.
39

40
41
42 **SUMMARY**

43 This bill restores the voter address confidentiality
44 provisions and requirements for counting valid write-in votes
45 that were eliminated during the First Regular Session of the
46 122nd Legislature. This bill grants authority for the municipal
47 clerk to conduct the duties of the registrar of voters and
48 removes a redundant provision about the certification of the list
49 of absentee voters. The bill also prohibits a candidate from
50

2 assisting voters who are unable to sign their own names with
3 signing candidate petitions or Maine Clean Election Act forms.
4 This bill clarifies that township voters may choose the most
5 convenient municipality in which to register to vote only if the
6 county commissioners have not provided for a voting place either
7 in the township or in another municipality. This bill removes an
8 inconsistent provision for the retention of voter registration
9 documents and makes a technical change to the ballot retention
10 period. This bill also changes certain requirements for
11 reporting to the Secretary of State by qualified political
12 parties and the municipal clerks. This bill prohibits the
13 unauthorized reproduction of unmarked official ballots. The bill
14 makes changes to the zones in which political activities are
restricted, both for election day and for absentee voting.