

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1169

H.P. 808

House of Representatives, March 25, 2009

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### An Act To Amend the Election Laws

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

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative TRINWARD of Waterville.

Cosponsored by Representatives: BEAULIEU of Auburn, FITTS of Pittsfield, PINKHAM of  
Lexington Township, RUSSELL of Portland.

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

2 **Sec. 1. 21-A MRSA §1, sub-§20**, as amended by PL 2007, c. 122, §2, is further  
3 amended to read:

4 **20. Immediate family.** "Immediate family" means a person's spouse, parent,  
5 grandparent, child, grandchild, sister, half-sister, brother, half-brother, stepparent,  
6 stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-  
7 in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former  
8 guardian or domestic partner, the half-brother or half-sister of a person's spouse, or the  
9 spouse of a person's half-brother or half-sister.

10 **Sec. 2. 21-A MRSA §1, sub-§33**, as enacted by PL 1985, c. 161, §6, is repealed.

11 **Sec. 3. 21-A MRSA §1, sub-§33-A** is enacted to read:

12 **33-A. Public counter.** "Public counter" means a separate counter built into a voting  
13 device that records the total number of ballots cast or tabulated on the voting device for  
14 an election.

15 **Sec. 4. 21-A MRSA §23, sub-§3-A** is enacted to read:

16 **3-A. Direct initiative of legislation and people's veto petitions.** The Secretary of  
17 State shall keep direct initiative of legislation and people's veto petitions in the Office of  
18 the Secretary of State for 2 months after any appeal period has passed.

19 **Sec. 5. 21-A MRSA §103, sub-§6**, as amended by PL 2007, c. 455, §4, is further  
20 amended to read:

21 **6. Appeal hearing.** Upon receipt of a complaint by a person aggrieved by the  
22 decision of the registrar, the chair of the registration appeals board shall immediately fix a  
23 time and place for the board to meet for a prompt hearing. The voter must be given  
24 written notice of the hearing at least 20 days in advance and must have the opportunity to  
25 testify and to present witnesses and other evidence at the hearing. The hearing is de novo.  
26 After hearing, the board may affirm, modify or reverse the decision of the registrar of  
27 voters. The board shall issue the decision to the voter in writing and shall provide  
28 information on how the voter may appeal the decision. The aggrieved person may appeal  
29 the decision of the board to the Superior Court in accordance with Rule 80B of the Rules  
30 of Civil Procedure.

31 **Sec. 6. 21-A MRSA §112, sub-§1, ¶A**, as amended by PL 1997, c. 436, §20, is  
32 further amended to read:

33 A. The following factors may be offered by an applicant and considered by a  
34 registrar in determining a person's residence under this section. The registrar need  
35 not find all of these factors to be present in order to conclude that an applicant  
36 qualifies to register to vote in the municipality:

37 (1) A direct statement of intention by the person pursuant to section 121,  
38 subsection 1;

- 1 (2) The location of any dwelling currently occupied by the person;
- 2 (6) The place where any motor vehicle owned by the person is registered;
- 3 (8) The residence address, not a post office box, shown on a current income tax
- 4 return;
- 5 (9) The residence address, not a post office box, at which the person's mail is
- 6 received;
- 7 (10) The residence address, not a post office box, shown on any current resident
- 8 hunting or fishing licenses held by the person;
- 9 (12) The residence address, not a post office box, shown on any motor vehicle
- 10 operator's license held by the person;
- 11 (14) The receipt of any public benefit conditioned upon residency, defined
- 12 substantially as provided in this subsection; or
- 13 (16) Any other objective facts tending to indicate a person's place of residence.

14 **Sec. 7. 21-A MRSA §112-A** is enacted to read:

15 **§112-A. Proof of identity for voting purposes**

16 Any of the following forms of documentation may be offered by an applicant and  
17 considered by a registrar in verifying the identity of an applicant who is registering to  
18 vote under this chapter and whose name does not already appear in the central voter  
19 registration system as a registered voter. The registrar need not request or consider all of  
20 these forms of documentation in order to verify an applicant's identity.

21 **1. Government-issued photograph identification document or credential.** A  
22 government-issued photograph identification document or credential, including, but not  
23 limited to, a current and valid United States passport, military identification, driver's  
24 license or state identification;

25 **2. Other government-issued identification document.** A government-issued  
26 identification document without a photograph, including, but not limited to, a certified  
27 birth certificate or a signed social security card;

28 **3. Other official documents.** An official document, including, but not limited to, a  
29 document confirming eligibility determinations for public benefits, a utility bill, a bank  
30 statement, a government check, a paycheck or other government document that shows the  
31 name and address of the voter; or

32 **4. Verified unique identifier for new voters.** A verified unique identifier for new  
33 voters, including the voter's Maine driver's license number, Maine identification number  
34 or the last 4 digits of the voter's social security number that are successfully verified  
35 through the central voter registration system verification.

36 **Sec. 8. 21-A MRSA §113**, as amended by PL 2005, c. 453, §10, is further  
37 amended to read:

1           **§113. Right survives change of residence**

2           A registered voter who moves to another state within ~~30~~ 60 days before a presidential  
3 election may not be removed from the incoming voting list and the voter's registration  
4 may not be cancelled in the central voter registration system until after the election unless  
5 the registrar has received confirmation of the voter's registration in another state. The  
6 voter may vote at that presidential election in person or by absentee ballot.

7           **Sec. 9. 21-A MRSA §154**, as amended by PL 2007, c. 455, §8, is further amended  
8 to read:

9           **§154. Registration and enrollment for citizens outside the United States**

10          **I. Application.** A person qualified to register under section 111, subsections 1 and 2  
11 and who resides outside the United States and does not maintain a fixed and principal  
12 home or other address in the State may register at the last residence address immediately  
13 before leaving the United States and enroll by filing a federal postcard application or an  
14 application designed by the Secretary of State. A citizen of the United States who resides  
15 outside of and has never lived in the United States may register to vote under this section  
16 at the Maine voting residence claimed by either of the person's parents. The state  
17 application must include, but is not limited to:

- 18          A. First name, middle name or initial and last name, first name or initial, middle  
19 name and last name or first name and last name;
- 20          B. Last residence address immediately before departing from the United States,  
21 including street, street number, apartment number, town and zip code;
- 22          C. Mailing address;
- 23          D. Date of birth;
- 24          H. Notification that failure to complete the entire application may prevent  
25 registration;
- 26          J. Signature of applicant;
- 27          L. Date of application;
- 28          N. Choice of political party if the registrant wishes to enroll in a political party or an  
29 indication that the applicant chose not to enroll in a party;
- 30          O. A place for the person's current, valid Maine driver's license number, if  
31 applicable; or, if the applicant has no driver's license number, the last 4 digits of the  
32 person's social security number, if applicable; or, if the applicant has neither number,  
33 a place to put "none" or "not applicable"; and
- 34          P. A place for the applicant to respond to the questions concerning the voter's  
35 qualifications as required by the federal Help America Vote Act of 2002, Public Law  
36 107-252.

37          **Sec. 10. 21-A MRSA §158**, as amended by PL 2001, c. 102, §1, is further  
38 amended to read:

1           **§158. Municipal caucus**

2           ~~The~~ During the gubernatorial election year, the registrar shall attend the official party  
3 caucuses biennial municipal caucus of each qualified party for at least 30 minutes  
4 preceding the commencement of the party caucus at the location where the party caucus  
5 is being held to accept registrations and enrollments. During the presidential election  
6 year, the registrar shall attend the biennial municipal caucus of each qualified party for at  
7 least one hour preceding the commencement of the caucus at the location where the  
8 caucus is being held. The registrar shall accept the registrations and enrollments of all  
9 qualified voters who attempt to register and enroll, and all persons so registered and  
10 enrolled may participate in their party caucus. The registrar shall allow all persons to  
11 register or enroll who are present at the caucus at the end of the 30-minute or one-hour  
12 registration period.

13           **Sec. 11. 21-A MRSA §163**, as amended by PL 2007, c. 455, §10, is further  
14 amended to read:

15           **§163. Appeal**

16           In a municipality that does not have a registration appeals board, if a person is  
17 aggrieved by the decision of the registrar of voters to cancel that person's registration in  
18 the central voter registration system or to reject that person's registration application, the  
19 person may appeal in writing to the municipal officers by filing a complaint. The  
20 municipal officers shall immediately fix a time and place for a prompt hearing. The voter  
21 must be given written notice of the hearing at least 20 days in advance and must have the  
22 opportunity to testify and to present witnesses and other evidence at the hearing. The  
23 hearing is de novo. After hearing, the municipal officers may affirm, modify or reverse  
24 the decision of the registrar of voters. The municipal officers shall issue the decision to  
25 the voter in writing and shall provide information on how the voter may appeal the  
26 decision. The aggrieved person may appeal the decision of the municipal officers to the  
27 Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.

28           **Sec. 12. 21-A MRSA §334**, as amended by PL 1995, c. 459, §21, is further  
29 amended to read:

30           **§334. Qualification of candidate for primary nomination**

31           A candidate for nomination by primary election must file a primary petition and  
32 consent under sections 335 and 336. The candidate must be enrolled, on or before March  
33 15th, in the party named in the petition and must be eligible to file a petition as a  
34 candidate for nomination by primary election under section 144, subsection 3. The  
35 registrar in the candidate's municipality of residence must certify to that fact ~~upon the~~  
36 petition on a form designed by the Secretary of State.

37           **Sec. 13. 21-A MRSA §335, sub-§7, ¶A**, as amended by PL 2005, c. 196, §4, is  
38 further amended to read:

39           A. The circulator of a primary petition shall verify by oath or affirmation before a  
40 notary public or other person authorized by law to administer oaths or affirmations

1 that the circulator personally witnessed all of the signatures to the petition ~~were made~~  
2 ~~in the circulator's presence~~ and that to the best of the circulator's knowledge and  
3 belief each signature is the signature of the person whose name it purports to be; each  
4 signature authorized under section 153-A was made by the authorized signer in the  
5 presence and at the direction of the voter; and each person is enrolled in the party  
6 named in the petition and is a resident of the electoral division named in the petition.

7 **Sec. 14. 21-A MRSA §353**, as amended by PL 1999, c. 426, §11, is further  
8 amended to read:

9 **§353. Qualification of candidate for nomination by petition**

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

16 **Sec. 15. 21-A MRSA §354, sub-§7, ¶A**, as amended by PL 2005, c. 196, §5, is  
17 further amended to read:

18 A. The circulator of a nomination petition shall verify by oath or affirmation before  
19 a notary public or other person authorized by law to administer oaths or affirmations  
20 that the circulator personally witnessed all of the signatures to the petition ~~were made~~  
21 ~~in the circulator's presence~~ and that to the best of the circulator's knowledge and  
22 belief each signature is the signature of the person whose name it purports to be; each  
23 signature authorized under section 153-A was made by the authorized signer in the  
24 presence and at the direction of the voter; and each person is a resident of the  
25 electoral division named in the petition.

26 **Sec. 16. 21-A MRSA §356, sub-§2, ¶D**, as enacted by PL 1985, c. 161, §6, is  
27 amended to read:

28 D. A challenger or a candidate may appeal the decision of the Secretary of State by  
29 commencing an action in the Superior Court. This action ~~shall~~ must be conducted in  
30 accordance with the Maine Rules of Civil Procedure, Rule ~~80B~~ 80C, except as  
31 modified by this section. This action must be commenced within 5 days of the date  
32 of the decision of the Secretary of State and ~~shall~~ must be tried, without a jury, within  
33 10 days of the date of that decision. Upon timely application, anyone may intervene  
34 in this action when the applicant claims an interest relating to the subject matter of  
35 the petition, unless the applicant's interest is adequately represented by existing  
36 parties. The court shall issue its written decision containing its findings of fact and  
37 conclusions of law and setting forth the reasons for its decision within 20 days of the  
38 date of the decision of the Secretary of State.

39 **Sec. 17. 21-A MRSA §601, sub-§2, ¶B**, as amended by PL 2007, c. 455, §18, is  
40 further amended to read:

1 B. The ballot must contain the legal name of each candidate, without any title, and  
2 ~~place of residence of each candidate~~, arranged alphabetically with the last name first,  
3 under the proper office designation. The initial letters of the last names of the  
4 candidates must be printed directly beneath each other in a vertical line. The names of  
5 candidates for any one office may not be split into more than one column regardless  
6 of number. The name of each candidate may be printed on the ballot in only one  
7 space. For the general election ballot, the party or political designation of each  
8 candidate must be printed with each candidate's name. The party or political  
9 designation may be abbreviated.

10 **Sec. 18. 21-A MRSA §601, sub-§2, ¶D**, as amended by PL 2007, c. 455, §18, is  
11 further amended to read:

12 D. At the end of the list of candidates for each office, there must be left as many  
13 blank spaces as there are vacancies to be filled. These spaces may be used by a voter  
14 to write in the name ~~and municipality of residence~~ of a person for whom the voter  
15 desires to vote, as provided in section 691, subsection 2 for a primary election or  
16 section 692, subsection 2 for a general election.

17 **Sec. 19. 21-A MRSA §651, sub-§2**, as repealed and replaced by PL 1997, c. 436,  
18 §92, is amended to read:

19 **2. Election materials distributed and posted.** At any time after the materials are  
20 received and before the polls are open, the clerk may open the packages or boxes of  
21 election materials, break the seals on the packages not marked "ballots," and use the  
22 materials for instructional purposes. The election officials shall post one instruction  
23 poster in each voting booth and ~~2 at least one~~ instruction posters poster outside the  
24 guardrail where ~~they are~~ it is visible to voters before they have voted. The election  
25 officials shall also post ~~2 sets~~ one set of sample ballots or ~~2 sets~~ one set of sample ballot  
26 labels for each ballot being used in that voting place, along with ~~2 posters~~ one poster of  
27 the constitutional resolutions and statewide referenda, outside the guardrail where they  
28 are visible to voters. The election officials shall post a list of any declared write-in  
29 candidates for that voting district, with the office sought, next to the sample ballot.

30 **Sec. 20. 21-A MRSA §671, sub-§3**, as amended by PL 2007, c. 455, §29, is  
31 further amended to read:

32 **3. Ballot issued.** The election clerk in charge of the ballots shall give the voter one  
33 ballot of each kind to which the voter is entitled. The election clerk in charge of the  
34 ballots may not give a voter voting with the accessible voting system ~~a~~ an official ballot,  
35 but may give the voter a sample ballot to use as a visual aid. ~~Instead, an~~ An election  
36 official shall escort the voter to the voting station containing the accessible voting system,  
37 instruct the voter on its proper use and provide the voter with access to all ballots to  
38 which the voter is entitled. The voter shall cast the voter's ballot using the accessible  
39 voting system.

40 **Sec. 21. 21-A MRSA §682, sub-§6** is enacted to read:

1        **6. Public property limited.** For purposes of this section, "public property" does not  
2 include a public right-of-way across privately owned property if it is an easement right-  
3 of-way.

4        **Sec. 22. 21-A MRSA §691, sub-§2,** as amended by PL 2007, c. 455, §36, is  
5 further amended to read:

6        **2. Write-in vote.** ~~If the voter wishes to vote for a person whose name is not on the~~  
7 ~~ballot and who is not a declared write-in candidate in accordance with section 722-A, the~~  
8 ~~voter must write the name and municipality of residence or paste a sticker containing the~~  
9 ~~name and municipality of residence in the blank space provided at the end of the list of~~  
10 ~~candidates for nomination to the office in question. If the voter wishes to vote for a~~  
11 ~~declared write-in candidate, the voter must write the name of the candidate in the blank~~  
12 ~~space provided at the end of the list of candidates for nomination to the office in question.~~  
13 ~~The voter must then mark the ballot as instructed in the directions on the ballot to indicate~~  
14 ~~a vote for the write-in candidate. A sticker may not be used to vote for a write-in~~  
15 ~~candidate.~~

16        **Sec. 23. 21-A MRSA §692, sub-§2,** as amended by PL 1993, c. 473, §22 and  
17 affected by §46, is further amended to read:

18        **2. Write-in vote.** ~~If the voter wishes to vote for a person whose name is not on the~~  
19 ~~ballot declared write-in candidate, the voter must write the name and municipality of~~  
20 ~~residence of the candidate in the blank space provided at the end of the list of nominees~~  
21 ~~for the office in question. The voter must then mark the ballot as instructed in the~~  
22 ~~directions on the ballot. A sticker may not be used to vote for a write-in candidate.~~

23        **Sec. 24. 21-A MRSA §695, sub-§2,** as enacted by PL 1985, c. 161, §6 and  
24 amended by c. 383, §12, is further amended to read:

25        **2. Separated into lots.** In counting the ballots, the election clerks shall form into  
26 counting teams of 2 election clerks, each of whom has a different party affiliation. The  
27 counting teams shall separate them the ballots into distinct lots. Each of these lots must  
28 consist of 50 ballots, except for one lot, which may have less than 50 ballots. Each  
29 counting team shall use one of the approved counting methods prescribed by the  
30 Secretary of State to produce 2 tally sheets for each lot that are in complete agreement as  
31 to the count for each candidate and question choice. They shall place with each lot a  
32 statement of the count in one of the tally sheets for that lot and the names of that is signed  
33 by the election clerks who made the count. They shall wrap the ~~statement of the count~~  
34 tally sheet around the outside of each the applicable lot of ballots. The 2nd tally sheet for  
35 each lot must be provided to the warden for use in completing a total tally of each office  
36 and question and for completing the election return.

37        **Sec. 25. 21-A MRSA §696, sub-§2,** as amended by PL 2007, c. 455, §38, is  
38 further amended to read:

39        **2. Invalid vote.** A vote for an office, candidate or question held to be invalid by the  
40 warden, ward clerk or deputy warden may not be counted for that office, candidate or  
41 question as follows.

- 1 A. If a voter marks more names for an office than there are vacancies to be filled or  
2 more choices for a question than are permitted, the voter's vote for that office or  
3 question may not be counted.
- 4 B. If a voter marks the voter's ballot in such a manner that it is impossible to  
5 determine the voter's choice, the voter's vote for the office or question concerned may  
6 not be counted.
- 7 C. If a voter marks a write-in indicator for an office, but does not write ~~both a name~~  
8 ~~and a municipality of residence~~ the name of a declared write-in candidate in the blank  
9 space provided to the right of the write-in indicator, that vote for that office ~~is not~~  
10 may not be counted, unless a determination of choice under subsection 4 is possible.
- 11 D. If a voter writes in ~~a name and municipality of residence~~, or ~~pastes a sticker~~  
12 ~~containing the candidate's name and municipality of residence~~ the name of a declared  
13 write-in candidate in the write-in space pursuant to section 691, but does not mark the  
14 write-in indicator, that vote for that office may not be counted.
- 15 E. If a voter writes in a write-in space ~~a fictitious name, the name of a deceased~~  
16 ~~person, the name of a person who has not filed a declaration of write-in candidacy as~~  
17 ~~provided by section 722-A or the name of a person from outside the State who is not~~  
18 ~~qualified to be a candidate for that office~~, the vote for that office may not be counted.
- 19 F. The warden, ward clerk or deputy warden shall write "Invalid vote" on the ballot  
20 and the reason the vote is invalid beside the office, candidate or question for which it  
21 is invalid and shall sign it and replace the ballot with the other ballots, to be counted  
22 for other offices or questions.

23 **Sec. 26. 21-A MRSA §696, sub-§6**, as enacted by PL 2005, c. 404, §7, is  
24 amended to read:

25 **6. Rules.** The Secretary of State shall ~~publish uniform guidelines~~ is authorized to  
26 adopt rules pursuant to Title 5, chapter 375, subchapter 2-A for determining voter intent  
27 based on relevant case law and provisions of this Title. These ~~guidelines~~ rules must be  
28 used ~~as a reference~~ by election officials in tabulating the results of state and local  
29 elections and in all recounts conducted pursuant to this Title. ~~The guidelines~~ A copy of  
30 the rules must be included with the instructional materials provided to the clerk, registrar  
31 and election officials in each municipality pursuant to section 605 and must be used by  
32 the Secretary of State in the training of election officials pursuant to section 505. Rules  
33 adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
34 chapter 375, subchapter 2-A.

35 **Sec. 27. 21-A MRSA §721, 3rd ¶**, as enacted by PL 2005, c. 453, §57, is  
36 amended to read:

37 In a municipality in which a recount has been requested pursuant to section 737-A,  
38 the clerk shall update the central voter registration system by entering voter participation  
39 history for that election within 10 business days after receiving ~~a copy of~~ the incoming  
40 voting list ~~as required by section 737-A, subsection 9~~ that has been returned by the  
41 Secretary of State after the recount. The clerk shall notify the Secretary of State as soon  
42 as this task is completed.

1           **Sec. 28. 21-A MRSA §724, sub-§1**, as enacted by PL 1985, c. 161, §6, is  
2 repealed.

3           **Sec. 29. 21-A MRSA §737-A, sub-§9**, as amended by PL 2005, c. 453, §58, is  
4 further amended to read:

5           **9. Package resealed and marked.** After a recount, if the election remains in  
6 dispute, the Secretary of State shall copy the incoming voting list, before proceeding to  
7 reseal the packages of ballots and incoming voting lists, noting the fact and date of the  
8 recount on the packages. The Secretary of State shall immediately send or deliver the  
9 copy of the incoming voting list to the clerk for the purpose of updating voter  
10 participation history in the central voter registration system. The clerk shall immediately  
11 send a receipt to the Secretary of State noting the date and time of delivery of the copy.  
12 All challenged and disputed ballots must be packaged separately. The challenged and  
13 disputed ballots must be kept until released to the court or to the Senate or the House of  
14 Representatives, if applicable, in case of an appeal.

15           **Sec. 30. 21-A MRSA §737-A, sub-§12** is enacted to read:

16           **12. Authority to adopt rules.** The Secretary of State is authorized to adopt rules  
17 governing the conduct and procedures for a recount. Rules adopted pursuant to this  
18 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

19           **Sec. 31. 21-A MRSA §753-A, sub-§6**, as enacted by PL 2007, c. 515, §10, is  
20 amended to read:

21           **6. Application by electronic means.** A municipal clerk may opt to accept absentee  
22 ballot applications by ~~e-mail~~ electronic means. ~~If the clerk opts to accept absentee ballot~~  
23 ~~applications by e-mail the clerk shall create a specific e-mail account for the purpose of~~  
24 ~~accepting e-mail applications.~~ At least 120 days before any election administered by the  
25 State, the clerk shall notify the Secretary of State of the clerk's intention to accept  
26 absentee ballot applications by ~~e-mail and of the e-mail address used to accept the~~  
27 ~~absentee ballot applications~~ electronic means. The Secretary of State shall post on its  
28 publicly accessible website a list of municipalities that have opted to accept absentee  
29 ballot applications by ~~e-mail~~ electronic means along with ~~the e-mail addresses and~~  
30 ~~procedures for requesting an absentee ballot by e-mail~~ electronic means. The Secretary  
31 of State shall design or approve the form of the absentee ballot application to be  
32 submitted by ~~e-mail~~ electronic means.

33           If the clerk opts to accept absentee ballot applications by ~~e-mail~~ electronic means, a voter  
34 may make an application for the voter's own ballot by ~~e-mail~~ electronic means using the  
35 form designed or approved by the Secretary of State. The voter may not designate an  
36 immediate family member or a 3rd person to deliver the ballot on the voter's behalf. The  
37 clerk shall verify that it is the voter who is requesting the ballot by confirming the voter's  
38 residence address and birth date with the information in the voter's record. The clerk  
39 shall print the ~~e-mail~~ electronically submitted application and write ~~"e-mail request"~~  
40 "electronic request" on the application.

1           **Sec. 32. 21-A MRSA §753-B, sub-§8**, as amended by PL 2005, c. 568, §19, is  
2 further amended to read:

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

14           This subsection does not apply to the display or distribution of any campaign advertising  
15 material on private property that is within 250 feet of the entrance to the building in  
16 which the clerk's office is located. For purposes of this section, "private property"  
17 includes privately owned property subject to a public right-of-way that is an easement  
18 right-of-way.

19           This subsection does not apply to campaign advertising material on automobiles traveling  
20 to and from the municipal office or parked on municipal property while the occupants are  
21 visiting the municipal office to conduct municipal business. It does not prohibit a person  
22 who is at the municipal office for the purpose of conducting municipal business or for  
23 absentee voting from wearing a campaign button when the longest dimension of the  
24 button does not exceed 3 inches.

25           **Sec. 33. 21-A MRSA §754-A, sub-§1, ¶C**, as amended by PL 1997, c. 436,  
26 §112, is further amended to read:

27           C. After the voter has completed marking the ballot, the voter shall then seal the  
28 ballot in its return envelope and complete the affidavit on the envelope. ~~No~~ A notary  
29 or witness certification is not required unless the voter is assisted pursuant to  
30 subsection 3.

31           **Sec. 34. 21-A MRSA §760-B, sub-§1**, as enacted by PL 2007, c. 455, §45, is  
32 amended to read:

33           **1. Time for processing.** In a municipality that has opted to process absentee ballots  
34 on the day immediately prior to election day, the municipal clerk or the clerk's designees  
35 may process absentee ballots at the times designated by the clerk, between the hours of  
36 9:00 a.m. and 9:00 p.m., except that if an inspection is requested pursuant to subsection 3,  
37 processing may not begin until after the inspection period has concluded.

38           **Sec. 35. 21-A MRSA §760-B, sub-§2**, as enacted by PL 2007, c. 455, §45, is  
39 amended to read:

40           **2. Notice of early processing.** The clerk must give notice of the municipality's  
41 intent to process absentee ballots prior to election day using the notice of election under

1 section 621-A, stating ~~each specific~~ the time that the clerk intends to begin processing  
2 absentee ballots and the inspection period provided in subsection 3. At least ~~7~~ 30 days  
3 before election day, the clerk shall ~~notify~~ provide a copy of the notice of election to the  
4 Secretary of State and the chairs of each political party of the municipality, ~~in writing,~~  
5 ~~that this procedure is to~~ indicating that early processing of absentee ballots will occur.  
6 The notice to the political parties must be considered sufficient as long as it is mailed to  
7 the last address of each municipal chair that is known to the clerk. The notice to the  
8 Secretary of State may be delivered by mail or facsimile. ~~A copy of the notice of election~~  
9 ~~is considered notice in writing under this subsection.~~ If the notice is not received by the  
10 Secretary of State by 5:00 p.m. on the 30th day before election day, the municipality may  
11 not process absentee ballots prior to election day.

12 **Sec. 36. 21-A MRSA §791, sub-§3, ¶B**, as enacted by PL 1993, c. 473, §38 and  
13 affected by §46, is amended to read:

14 B. Is a candidate who, notwithstanding this subchapter, delivers, receives, accepts,  
15 notarizes, assists or witnesses an absentee ballot, other than the candidate's own  
16 absentee ballot, furnished by the clerk of a municipality in this State. This paragraph  
17 does not apply to an elected municipal clerk ~~in an election when no other name for~~  
18 ~~the office of clerk appears on the ballot who is a candidate for reelection to the office~~  
19 ~~of municipal clerk, where there is no other candidate for that office.~~ In a contested  
20 election for the office of clerk, a clerk may not be exempted from the provisions of  
21 this paragraph but shall instead appoint a deputy or an assistant to whom the  
22 municipality shall pay all associated costs for the duration of the deputy's or  
23 assistant's temporary employment in that capacity.

24 **Sec. 37. 21-A MRSA §822, sub-§1**, as enacted by PL 1985, c. 161, §6, is  
25 amended to read:

26 **1. Counters exposed.** If the number on the seal agrees with the number on the  
27 envelope, the warden shall open the doors concealing the counters, inspect the machine  
28 and sign a certificate provided by the Secretary of State showing that all counters are set  
29 at "000," that the number of the ~~protective~~ public counter agrees with the number on the  
30 envelope and that all parts of the machine and the ballot labels are in proper condition for  
31 voting:

32 A. If the machine is provided with a device or devices for printing or photographing  
33 candidate and question counters, it is not necessary to open the door concealing the  
34 counters. The warden and the election clerk shall proceed to operate the mechanism  
35 provided to produce one "before election inspection record" showing whether the  
36 candidate and question counters register "000" and sign the certificate as prescribed  
37 by the Secretary of State.

38 **Sec. 38. 21-A MRSA §827, sub-§1**, as enacted by PL 1985, c. 161, §6, is  
39 amended to read:

40 **1. Keys sealed in envelope.** In the presence of an election clerk from a political  
41 party other than that of the warden, the warden shall enclose the keys to each voting  
42 machine in separate envelopes furnished by the municipal clerk. The warden shall write

1 the number of each machine, the location of the voting place in which it was used, the  
2 number on the seal and the numbers registered on the protective public counter on the  
3 outside of each envelope.

4 **Sec. 39. 21-A MRSA §901, first ¶**, as amended by PL 1993, c. 695, §33, is  
5 further amended to read:

6 To initiate proceedings for a people's veto referendum or the direct initiative of  
7 legislation, provided in the Constitution of Maine, Article IV, Part Third, Sections 17 and  
8 18, a voter shall submit a written application to the Department of the Secretary of State  
9 on a form designed by the Secretary of State. The application must contain the names,  
10 addresses and signatures of 5 voters, in addition to the applicant, who are designated to  
11 receive any notices in proceedings under this chapter. For a direct initiative, the  
12 application must contain the full text of the proposed law and a summary that explains the  
13 purpose and intent of the direct initiative. The voter submitting the application shall sign  
14 the application in the presence of the Secretary of State, the Secretary of State's designee  
15 or a notary public.

16 **Sec. 40. 21-A MRSA §901, sub-§3-A**, as amended by PL 2007, c. 234, §1, is  
17 further amended to read:

18 **3-A. Review for proper form.** The Secretary of State shall review the proposed law  
19 for a direct initiative of legislation within ~~40~~ 15 business days after receipt of the  
20 application and either reject the application or provide a first revised draft of the initiative  
21 legislation to the applicant within that time. The Secretary of State may reject the  
22 application if the Secretary of State determines that the proposed law:

- 23 A. Does not conform to the form prescribed by the Secretary of State; or  
24 B. Does not conform to the essential aspects of the drafting conventions established  
25 for the Maine Revised Statutes. The drafting conventions include but are not limited  
26 to:
- 27 (1) Correct allocation to the statutes and correct integration with existing  
28 statutes;
  - 29 (2) Bill titles and statute section headnotes that objectively reflect the content of  
30 the bill, section or sections to which they apply;
  - 31 (3) Conformity to the statutory numbering system; and
  - 32 (4) Ensuring that bills enacting statutes do not contain provisions that describe  
33 intent or make testimonial statements without creating a legal requirement or  
34 duty.

35 By consent of the applicant the proposed law may be modified to conform with the  
36 requirements of this section. The Secretary of State may request assistance from the  
37 Revisor of Statutes in reviewing the proposed law.

38 The applicant shall submit each subsequent draft of the legislation to the Secretary of  
39 State for review following the same process. The Secretary of State shall review each  
40 subsequent draft from the applicant and provide a revised draft or written response

1 suggesting how the proposed law may be modified to conform with to the requirements  
2 of this section within 10 business days. The applicant must give written consent to the  
3 final language of the proposed law to the Secretary of State before the petition form is  
4 designed by the Secretary of State.

5 **Sec. 41. 21-A MRSA §906, sub-§2**, as enacted by PL 1985, c. 161, §6, is  
6 repealed.

## 7 SUMMARY

8 This bill adds to the definition of "immediate family" and provides a definition for the  
9 "public counter" mechanism on a voting device. The bill establishes a retention period  
10 for direct initiative of legislation and people's veto petitions. The bill also clarifies the  
11 registrar's consideration of residency factors in determining the voting residence of an  
12 applicant and provides factors for the registrar to consider in verifying the identity of a  
13 voter. The bill expands the "fail safe" provision for a voter who moves to a new state  
14 before a presidential election from 30 days to 60 days before the election. The bill also  
15 provides that United States citizens who have never lived in the United States may  
16 register to vote at the Maine voting residence claimed by either of the person's parents.  
17 The bill increases the voter registration period before a presidential year municipal caucus  
18 from at least 30 minutes to at least one hour. The bill requires that decisions made by the  
19 authority hearing an appeal from a voter registration decision must be issued to the voter  
20 in writing. The bill authorizes the Secretary of State to determine the form of the  
21 registrar's enrollment certification on candidate petitions. It also clarifies that petition  
22 circulators must take oath that they "personally witnessed" all the signatures to the  
23 petition, rather than simply swearing that the signatures were made in the circulator's  
24 presence. The bill removes the requirement that a candidate's residence must be listed on  
25 the ballot. The bill changes the requirements for the number of copies of postings at the  
26 voting place from 2 to one and adds a new requirement for posting the list of declared  
27 write-in candidates next to the sample ballot. The bill amends the requirements for  
28 casting a write-in vote and clarifies the requirements for when a write-in vote may be  
29 counted. The bill further specifies the procedures for the counting of ballots by the  
30 election clerks. The bill changes the requirement for the Secretary of State to publish  
31 uniform guidelines for determining voter intent into rule-making authority and restores  
32 the authority of the Secretary of State to adopt rules governing recount procedures. The  
33 bill clarifies the requirement for when a copy of the voting list must be provided to the  
34 clerk after a recount. The bill also changes the references for absentee ballot e-mail  
35 requests to requests made by "electronic means." The bill clarifies the time period  
36 allowed for early processing of absentee ballots and requires municipalities that wish to  
37 process absentee ballots early to provide a copy of the notice of election to the Secretary  
38 of State by 30 days before the election. The bill prohibits a candidate from assisting an  
39 absentee ballot. This bill requires that an applicant for a direct initiative of legislation  
40 must submit a summary that explains the purpose and intent of the direct initiative along  
41 with the application form and allows the Secretary of State to have a 15-business-day  
42 period to review the first draft of the application.