

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2010

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Legislative Document

No. 1667

S.P. 632

In Senate, December 21, 2009

### An Act To Amend the Election Laws and Other Related 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.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator SULLIVAN of York.

Cosponsored by Representative TUTTLE of Sanford and

Senator: JACKSON of Aroostook, Representative: MARTIN of Eagle Lake.

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

2 **Sec. 1. 1 MRSA §353**, as amended by PL 2009, c. 341, §1, is further amended to  
3 read:

4 **§353. Explanation of proposed amendments and statewide referenda**

5 With the assistance of the Secretary of State, the Attorney General shall prepare a  
6 brief explanatory statement that must fairly describe the intent and content and what a  
7 "yes" vote favors and a "no" vote opposes for each constitutional resolution or statewide  
8 referendum that may be presented to the people and that must include any information  
9 prepared by the Treasurer of State under Title 5, section 152. The explanatory statement  
10 may not include comments of proponents or opponents as provided by section 354. In  
11 addition to the explanatory statement, the Office of Fiscal and Program Review shall  
12 prepare an estimate of the fiscal impact of each constitutional resolution or statewide  
13 referendum on state revenues, appropriations and allocations within ~~40~~ 15 business days  
14 after the receipt of the application and full text of the proposed law by the Secretary of  
15 State. The fiscal impact estimate must summarize the aggregate impact that the  
16 constitutional resolution or referendum will have on the General Fund, the Highway  
17 Fund, Other Special Revenue Funds and the amounts distributed by the State to local  
18 units of government. The Secretary of State shall publish the explanatory statement and  
19 the fiscal estimate in each daily newspaper of the State, not more than 10 and not less  
20 than 7 days prior to the voting. This information may be published in the English  
21 language in a foreign language newspaper.

22 **Sec. 2. 21-A MRSA §3**, as amended by PL 1997, c. 436, §8, is further amended to  
23 read:

24 **§3. Signatures and names**

25 When this Title requires a name or signature on a document, immaterial irregularities  
26 ~~shall do~~ not invalidate the name or signature if the identity of the person named is clear to  
27 the public official charged with reviewing that document.

28 **1. Immaterial irregularities.** Immaterial irregularities include, but are not limited  
29 to, misspelling, inclusion or omission of initials and substitution of initials or nicknames  
30 for given names.

31 **2. Application.** This policy ~~shall apply~~ applies to circumstances including, but not  
32 limited to, the following:

- 33 A. Absentee ballot applications;
- 34 B. Absentee ballot affidavits;
- 35 C. Signatures on petitions; and
- 36 D. Names appearing for write-in candidates on ballots.

37 **Sec. 3. 21-A MRSA §7**, as enacted by PL 1989, c. 166, §1, is amended to read:

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**§7. Use of words**

When used in this Title, the words "shall" and "must" are used in a mandatory sense to impose an obligation to act ~~or refrain from acting~~ in the manner specified by the context. The word "may," when used in this Title, is used in a permissive sense to grant authority or permission, but not to create duty, to act in the manner specified by the context. When used in this Title, the term "may not" indicates a lack of authority or permission to act or refrain from acting in the manner specified by the context, ~~whereas the term "shall not" indicates a duty to refrain from action or omission in the manner specified by the context.~~

**Sec. 4. 21-A MRSA §101, sub-§1**, as amended by PL 2009, c. 253, §8, is repealed and the following enacted in its place:

**1. Qualifications.** The registrar must be a citizen of the United States, a resident of the State and at least 18 years of age. The registrar may not be an employee of a party or candidate or be an officer of a municipal, county or state party committee. In the electoral division in which the registrar is appointed, the registrar may not:

- A. Hold or be a candidate for any state or county office;
- B. Be a treasurer for a candidate; or
- C. Be a municipal officer as defined by Title 30-A, section 2001.

**Sec. 5. 21-A MRSA §141, sub-§1**, as amended by PL 1989, c. 313, §2, is further amended to read:

**1. Influence prohibited.** The registrar ~~shall~~ may not attempt to influence an applicant in any aspect of the enrollment procedure and ~~shall~~ may not allow anyone else present to do so.

**Sec. 6. 21-A MRSA §501, sub-§3**, as amended by PL 2001, c. 310, §27, is further amended to read:

**3. Provisions applicable to both towns and cities.** A warden, ward clerk or any deputy warden may not be an officer of a municipal committee of a political party. Ward clerks or deputy wardens shall perform the duties of the warden when necessary and may not replace election clerks prescribed by this Title. The warden, ward clerk and deputy wardens must be registered voters of the ~~municipality~~ county, except when a nonresident clerk is acting as either warden, ward clerk or deputy warden. Before assuming the duties of office, the warden is sworn by the municipal clerk, and the ward clerk or deputy warden is sworn by the municipal clerk or by the warden.

**Sec. 7. 21-A MRSA §625**, as amended by PL 2009, c. 341, §2, is further amended to read:

**§625. Posting of sample ballots**

At least 7 days before an election, the clerk shall post a sample ballot, furnished to the clerk under section 603, ~~and the fiscal impact statement for direct initiatives of~~

1 legislation furnished to the clerk under section 629, subsection 1, paragraph D-1 in a  
2 conspicuous, public place in each voting district.

3 **Sec. 8. 21-A MRSA §629, sub-§1, ¶D-1**, as enacted by PL 2009, c. 341, §3, is  
4 amended to read:

5 D-1. The Secretary of State shall provide adequate copies of the fiscal impact  
6 statement for each direct initiative of legislation prepared in accordance with Title 1,  
7 section 353, which must be placed in each voting booth available in the voting place  
8 for voters to review upon request.

9 **Sec. 9. 21-A MRSA §756**, as amended by PL 2003, c. 447, §§32 and 33, is further  
10 amended to read:

11 **§756. Procedure on receipt**

12 When the clerk receives a return envelope apparently containing an absentee ballot,  
13 ~~he the clerk~~ shall observe the following procedures.

14 **1. Time of receipt noted.** ~~He The clerk~~ shall note the date and time of delivery on  
15 each return envelope. On request, ~~he the clerk~~ shall give the person who delivers the  
16 ballot a receipt, stating the exact time of delivery.

17 **2. Clerk to examine signatures and affidavit.** ~~He the clerk~~ shall compare the  
18 signature of the voter on the application, where required, with that on the corresponding  
19 return envelope. ~~He The clerk~~ shall examine the affidavit on the return envelope. If the  
20 signatures appear to have been made by the same person and if the affidavit is properly  
21 completed, ~~he the clerk~~ shall write "OK" and ~~his the clerk's~~ initials on the return  
22 envelope. Otherwise, ~~he the clerk~~ shall note any discrepancy on the return envelope.

23 A. If the signatures do not appear to have been made by the same person, but this  
24 discrepancy is apparently the result of the voter's having properly obtained assistance  
25 under either section 753-A, subsection 5, or section 754-A, subsection 3, or both,  
26 then the clerk shall note the discrepancy on the return envelope, but shall also write  
27 "OK" and the clerk's initials on the return envelope.

28 **3. Application attached.** The clerk shall attach each application, where required, to  
29 the corresponding envelope. ~~He shall~~ The clerk may not open any return envelope.

30 **5. Envelopes and lists delivered.** On election day, the clerk shall deliver or have  
31 delivered the return envelopes prescribed by section 752, subsection 3, with the  
32 applications, when required, attached and a copy of the list required by section 753-B,  
33 subsection 6, to the warden of the voting district in which the voter is registered, except in  
34 those municipalities where the clerk or the clerk's designee processes the absentee ballots  
35 centrally. In those municipalities where the absentee ballots are processed centrally, the  
36 clerk shall deliver or have delivered the materials described in this subsection to the  
37 person authorized by the clerk to process absentee ballots at the designated central  
38 location. After processing the absentee ballots, the warden or the clerk shall attach the  
39 copy of the list of absentee voters to the incoming voting list and seal it as provided in  
40 section 698.

1           **6. Procedure when duplicate envelopes received from same voter.** If more than  
2 one return envelope is received from the same voter who was authorized to receive a 2nd  
3 state absentee ballot pursuant to section 753-B, then the clerk or warden shall process and  
4 count the ballot from the envelope marked "second ballot issued" or bearing the latest  
5 date and time and shall reject and keep sealed the first absentee envelope. If more than  
6 one return envelope is received from the same voter who was not authorized to receive a  
7 2nd state absentee ballot pursuant to section 753-B, then the clerk or warden shall process  
8 and count the ballot from the envelope bearing the earliest date and time. If only one  
9 return envelope is received from a voter who was authorized to receive a 2nd state  
10 absentee ballot pursuant to section 753-B, then the clerk or warden shall process and  
11 count that ballot for all offices or questions for which the voter was entitled to vote.

12           **Sec. 10. 21-A MRSA §759, sub-§3,** as amended by PL 1999, c. 645, §9, is  
13 further amended to read:

14           **3. Rejected if incorrect.** The warden shall ~~may~~ not open the envelope and shall  
15 write "Rejected" on it, the reason why and ~~his~~ the warden's initials if ~~he~~ the warden finds  
16 that:

- 17           A. The signatures do not appear to have been made by the same person and the  
18 discrepancy is not the result of the voter's having obtained assistance under section  
19 753-A, subsection 5 or section 754-A, subsection 3, in cases where an application is  
20 required;
- 21           B. The affidavit is not properly completed;
- 22           C. The person is not registered or enrolled where necessary;
- 23           D. The voter has voted in person; or
- 24           E. The ballot was received by the clerk after the deadline.

25           **Sec. 11. 21-A MRSA §759, sub-§8,** as repealed and replaced by PL 1999, c. 645,  
26 §10, is amended to read:

27           **8. Inspection of absentee envelopes before processing.** If a ~~candidate or the~~  
28 ~~candidate's representative~~ member of the public notifies the clerk before 5 p.m. on the day  
29 before election day that the ~~candidate or the candidate's representative~~ person wishes to  
30 inspect absentee ballot applications and envelopes before they are processed, the warden  
31 or clerk shall allow the ~~candidate or representative~~ requestor to inspect the applications  
32 and envelopes of ballots before they are processed or for 30 minutes after the time  
33 specified in the notice for processing on election day. The warden may immediately  
34 proceed to process the ballots after the ~~candidate or representative~~ person has completed  
35 the review.

36           If the municipality processes absentee ballots only after the polls close on election day,  
37 then ~~the candidate or the candidate's representative~~ a member of the public who wishes to  
38 inspect absentee materials must notify the warden by 5 p.m. on election day that the  
39 ~~candidate or the candidate's representative~~ person wishes to inspect absentee ballot  
40 applications and envelopes after the polls close. The warden shall allow the ~~candidate or~~  
41 ~~representative~~ requestor to inspect the applications and envelopes for 30 minutes after the

1 polls close. The warden may immediately proceed to process the ballots after the  
2 ~~candidate or representative person~~ has completed the review.

3 **Sec. 12. 21-A MRSA §760-B, sub-§3**, as enacted by PL 2007, c. 455, §45, is  
4 amended to read:

5 **3. Inspection of absentee envelopes before processing.** A member of the public  
6 may make a written request of the clerk to inspect absentee ballot applications and  
7 envelopes before they are processed if the request is made by 9:00 a.m. on the day  
8 immediately prior to election day. The clerk shall make the absentee ballot applications  
9 and envelopes received by that time available for public inspection for one hour before  
10 the first starting time specified in the notice of election for processing the absentee  
11 ballots. The clerk may immediately proceed to process the ballots after the one-hour  
12 inspection time has elapsed.

13 **Sec. 13. 21-A MRSA §760-B, sub-§4**, as enacted by PL 2007, c. 455, §45, is  
14 amended to read:

15 **4. Processing and other procedures.** The clerk shall use the procedure described in  
16 this section when processing the absentee ballots during the designated times. Procedures  
17 for handling full ballot boxes, pollwatching and challenging ballots are conducted in the  
18 same manner as election day or as nearly close as practicable.

19 **Sec. 14. 21-A MRSA §828**, as enacted by PL 1985, c. 161, §6, is amended to  
20 read:

21 **§828. Security for keys**

22 The municipal clerk shall keep the keys to each voting machine in a vault or safe  
23 ~~which that~~ is kept securely locked when the keys are not being removed from or replaced  
24 in it. ~~He shall~~ The municipal clerk may not allow any unauthorized person to have  
25 possession of the keys to any voting machine.

26 **1. Keys returned.** A person who is authorized to have possession of the keys to a  
27 voting machine must return them to the clerk when ~~he~~ the person no longer needs them  
28 for the authorized purpose.

29 **Sec. 15. 21-A MRSA §850**, as enacted by PL 1985, c. 161, §6, is amended to  
30 read:

31 **§850. Secrecy preserved**

32 The warden at each voting place ~~shall~~ may not remain or allow any other person to  
33 remain where ~~he~~ the warden or person can see how anyone votes, except that a proper  
34 official may remain when ~~his~~ the official's assistance has been requested by a voter.

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## SUMMARY

2       The bill corrects an inconsistency between the Maine Revised Statutes, Title 1 and  
3 Title 21-A with regard to the period of time that the Office of Fiscal and Program Review  
4 has to prepare an estimate of the fiscal impact of each constitutional resolution or  
5 statewide referendum on state revenues, appropriations and allocations. The bill clarifies  
6 the qualifications of the registrar of voters and what other positions the registrar is  
7 prohibited from seeking or holding. The bill allows the warden, ward clerk and deputy  
8 wardens of a municipality to be registered voters of the county, rather than requiring them  
9 to be registered voters of the municipality. The bill removes the requirements that the  
10 fiscal impact statement for direct initiatives of legislation must be posted with the sample  
11 ballots at least 7 days before election day and posted in each booth on election day. The  
12 bill clarifies that any member of the public may inspect absentee ballot envelopes and  
13 applications before they are processed, according to certain procedures and times  
14 specified in law. The bill also makes grammatical changes and fixes gender-specific  
15 language.