

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1134

S.P. 343

In Senate, March 16, 2011

An Act To Make Municipal Recounts Consistent with State Recounts

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

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator GOODALL of Sagadahoc.

Cosponsored by Senators: FARNHAM of Penobscot, PATRICK of Oxford, PLOWMAN of Penobscot.

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

2 **Sec. 1. 30-A MRSA §2102, sub-§4, ¶C**, as amended by PL 1993, c. 608, §4, is
3 further amended to read:

4 C. When an original or supplementary petition has been certified insufficient, the
5 committee, within 2 days after receiving the copy of the clerk's certificate, may file a
6 request with the municipal officers for review.

7 The municipal officers shall inspect the petitions in substantially the same form,
8 manner and time as a recount hearing under section ~~2531-A~~ 2531-B and shall make
9 due certificate of that inspection. The municipal officers shall file a copy of that
10 certificate with the municipal clerk and mail a copy to the committee. The certificate
11 of the municipal officers is a final determination of the sufficiency of the petitions.

12 **Sec. 2. 30-A MRSA §2354, sub-§5**, as amended by PL 1993, c. 608, §5, is
13 further amended to read:

14 **5. Recount.** Upon written application of 10% of the persons, or 100 persons,
15 whichever is less, whose names were checked on the voting lists at any quasi-municipal
16 corporation or district referendum held under this chapter, ~~a ballot inspection or a recount~~
17 ~~hearing~~ must be granted. The time limits, rules and all other matters applying to
18 candidates under ~~sections 2530-A and 2531-A~~ section 2531-B apply equally to applicants
19 for ~~either the inspection or~~ recount.

20 **Sec. 3. 30-A MRSA §2530-A**, as enacted by PL 1993, c. 608, §11, is repealed.

21 **Sec. 4. 30-A MRSA §2531-A**, as amended by PL 1999, c. 712, §1, is repealed.

22 **Sec. 5. 30-A MRSA §2531-B** is enacted to read:

23 **§2531-B. Recount of an election for office**

24 A recount for an election for municipal office must be performed pursuant to the
25 provisions of Title 21-A, section 737-A and the rules adopted pursuant to Title 21-A,
26 section 737-A, except that the provisions of Title 21-A, section 737-A, subsections 1, 5
27 and 12 and the duties of the State Police do not apply to this section. Except for the
28 municipal clerk, a municipal clerk's designee or an official of a municipal police
29 department performing an official duty in a recount, an employee or elected official of the
30 municipality or a candidate in an election may not participate in a recount of that election
31 under this section.

32 **1. When deposit is required.** A deposit is not required if the percentage difference
33 shown by the official tabulation is equal to or less than:

34 A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;

35 B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or

36 C. One and one-half percent, if the combined vote for the candidates is 5,001 or
37 over.

1 For purposes of this subsection, "percentage difference" means the difference between the
2 percentage of the total votes for an office received by the candidate requesting a ballot
3 inspection and the percentage of the total votes for that office received by the nearest
4 winning candidate.

5 **2. Amount of deposit.** The amount of the deposit is determined by the clerk of the
6 municipality and must be 50% of the reasonable estimate of the cost to the municipality
7 performing the inspection.

8 **3. Forfeiture or refund of deposit.** All deposits required by this section must be
9 made with the municipal clerk when a recount is requested by a losing candidate or an
10 undeclared write-in candidate. This deposit, made by the candidate requesting the ballot
11 inspection, is forfeited to the municipality if a subsequent recount fails to change the
12 result of the election. If a recount changes the result of the election, the deposit must be
13 returned to the candidate who paid the deposit. After the completion of the recount, if the
14 recount has not changed the result of the election, the municipality shall calculate the
15 actual cost of the procedure. If the deposit was greater than the actual cost, the
16 overpayment must be refunded to the candidate. If the actual cost was greater than the
17 deposit, the candidate shall pay the remainder of the actual cost to the municipality. A
18 candidate who is not required to pay a deposit pursuant to subsection 1 may not be
19 charged for the inspection or recount regardless of whether the procedure changes the
20 result of the election.

21 **Sec. 6. 30-A MRSA §2532**, as amended by PL 1993, c. 608, §14, is further
22 amended to read:

23 **§2532. Referendum recount procedure**

24 In the case of a referendum, ~~a ballot inspection or a recount hearing~~ must be granted
25 upon written application of 10% or 100, whichever is less, of the persons whose names
26 were checked on the voting list at any town referendum or ballot question under section
27 2105 or 2528, or any city referendum. The time limits, rules and all other matters
28 applying to candidates under ~~sections 2530-A and 2531-A~~ section 2531-B apply equally
29 to applicants for ~~either the inspection or~~ recount. Except as otherwise provided in this
30 section, the method of conducting a referendum recount is governed by Title 21-A,
31 section 737-A.

32 **Sec. 7. 30-A MRSA §2556**, as amended by PL 1993, c. 608, §16, is further
33 amended to read:

34 **§2556. Recount; challenge for office**

35 Sections ~~2530-A~~ 2531-B to 2533 apply in a city and govern ~~ballot inspections,~~
36 recounts of elections for office, referenda and the procedure for challenging a person who
37 claims title to an office.

38 **Sec. 8. 30-A MRSA §5404, sub-§1, ¶A**, as amended by PL 1993, c. 608, §17, is
39 further amended to read:

1 A. Revenue bonds of a town, as distinguished from a city, may not be issued until
2 the general purpose for which the bonds are to be issued and the maximum principal
3 amount of the bonds to be authorized have been approved by ballot by a majority of
4 the votes cast on the question. The total number of votes cast must be equal to at
5 least 20% of the total vote for all candidates for Governor cast in the municipality at
6 the last gubernatorial election. The ballot submitted to the voters of a town to
7 authorize the issuance of revenue bonds must state the general purpose for which the
8 proposed bonds are to be issued and the maximum principal amount of the proposed
9 bonds authorized to be issued. The voting at meetings held in towns must be held
10 and conducted in accordance with sections 2528 to ~~2531-A~~ 2531-B, even if the town
11 has not accepted the provisions of section 2528.

12 **SUMMARY**

13 This bill makes most provisions governing recounts of state elections for office and
14 ballot initiatives apply to recounts of municipal elections for office and referenda.