

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1376

H.P. 1015

House of Representatives, March 31, 2011

An Act To Preserve the Integrity of the Voter Registration and Election Process

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

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Speaker NUTTING of Oakland.

Cosponsored by President RAYE of Washington and

Representatives: CEBRA of Naples, CURTIS of Madison, CUSHING of Hampden, Senators:

MARTIN of Kennebec, McCORMICK of Kennebec, SNOWE-MELLO of Androscoggin,

THOMAS of Somerset, WHITTEMORE of Somerset.

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

2 **Sec. 1. 21-A MRSA §121, sub-§1-A**, as amended by PL 2005, c. 453, §12, is
3 further amended to read:

4 **1-A. Identification and proof.** Registration applications taken by outside agencies
5 must be transferred to the Secretary of State within 5 days of receipt. An applicant who
6 attempts to register within 30 days of an election must be advised that the registrar might
7 not receive the application before ~~that election~~ the deadline for mail or 3rd-person
8 registration, but that the applicant may register in person ~~before or on election day~~ no
9 later than the deadline for in-person registration set forth in section 122, subsection 4-A.

10 Registration applications received by the Secretary of State from outside agencies 30 days
11 or more before an election must be transferred to the appropriate registrar's office within
12 7 business days of receipt. Registration applications received by the Secretary of State
13 from outside agencies less than 30 days before an election must be transferred to the
14 appropriate registrar's office within 5 business days of receipt. Registration applications
15 by mail or by a 3rd person must be received in the registrar's office by the close of
16 business on the 21st day before election day in order for persons' names to appear on the
17 incoming voting list for that election. The 20-day period before the election is the closed
18 period for outside registrations. The registrar shall send the notice required by section
19 122 to all voters whose applications were received by mail or a 3rd person by the 21st
20 day before election day no later than the 18th day before election day.

21 A person who registers ~~during the 20 days before election day or on election day~~ shall
22 register in person ~~and~~ shall show proof of identity and residency. If satisfactory proof of
23 identity and residency can not be provided to the registrar or deputy, the person's name is
24 entered into the central voter registration system and placed on the incoming voting list
25 and the person casts a challenged ballot.

26 **Sec. 2. 21-A MRSA §122, first ¶**, as amended by PL 2003, c. 584, §3, is further
27 amended to read:

28 A person may register as a voter by appearing before the registrar, by the registration
29 deadline in subsection 4-A, proving that the person meets the qualifications of section
30 111, subsections 1 to 3, and filing an application provided by the registrar containing the
31 information required by section 152 or 154, if applicable. Township residents may
32 register as provided in section 156.

33 **Sec. 3. 21-A MRSA §122, sub-§4**, as amended by PL 2005, c. 453, §16, is
34 repealed.

35 **Sec. 4. 21-A MRSA §122, sub-§4-A** is enacted to read:

36 **4-A. Deadline for registration.** The deadline for receipt of registration applications
37 submitted by mail or by a 3rd person is the close of business on the 21st day before
38 election day. The deadline for in-person registration is the 3rd business day before
39 election day by the close of the registrar's hours established under subsection 6.

1 **Sec. 5. 21-A MRSA §122, sub-§5**, as amended by PL 2007, c. 515, §3, is further
2 amended to read:

3 **5. Alternative registration schedule for absentee voters.** If the clerk receives a
4 properly completed absentee ballot application that is signed by a person who is not a
5 registered voter in the municipality, a presumption of the person's qualification as a voter
6 is established. The clerk shall send an absentee ballot to the voter at the address
7 indicated, along with a voter registration application under section 152. The completed
8 registration application must be returned to the clerk ~~by the close of the polls on election~~
9 ~~day~~ no later than the deadline for in-person registration under subsection 4-A, in order for
10 the ballot to be counted and may not be sealed with the voted absentee ballot. If the
11 application is received ~~during the closed period~~ before the registration deadline and the
12 registrar is not satisfied as to the person's qualification as a voter, the registrar shall
13 follow the requirements of section 121, subsection 1-A to place the person's name on the
14 incoming voting list and challenge the absentee ballot. An application by telephone
15 under section 753-A, subsection 4 or an application by e-mail under section 753-A,
16 subsection 6 does not establish a presumption of qualification under this section and the
17 requestor must submit a properly completed voter registration application before the clerk
18 may issue an absentee ballot.

19 **Sec. 6. 21-A MRSA §122, sub-§6**, as amended by PL 2005, c. 453, §18, is
20 repealed and the following enacted in its place:

21 **6. Schedule for acceptance of registrations.** The registrar shall accept registrations
22 on any business day or other day that the clerk's office is open prior to the registration
23 deadline established by subsection 4-A. The names and other information from the voter
24 registration applications of any persons registering by this deadline must be recorded as
25 provided in subsection 7. On the 3rd business day before election day, the registrar must
26 be available to accept the registrations of applicants who appear in person as follows:

- 27 A. For at least 2 hours, in a municipality with a population of 500 or fewer;
28 B. For at least 4 hours, in a municipality with a population of more than 500 but
29 fewer than 2,500; or
30 C. For at least 6 hours, including at least 2 hours in the evening between 5:00 p.m.
31 and 9:00 p.m., in a municipality with a population of 2,500 or more.

32 The registrar shall publish the hours for registration required by this section according to
33 section 125.

34 **Sec. 7. 21-A MRSA §122, sub-§7**, as amended by PL 2005, c. 453, §19, is
35 repealed and the following enacted in its place:

36 **7. Record of names.** The registrar shall, after finding the applicant qualified, enter
37 the voter's name and other information from the voter registration application into the
38 central voter registration system before the incoming voting list is printed. Before the
39 polls are opened, the registrar shall deliver the incoming voting list to the clerk. The
40 inclusion of a person's name on the incoming voting list entitles that person to vote on
41 election day.

1 **Sec. 8. 21-A MRSA §122, sub-§8**, as enacted by PL 1985, c. 307, §1, is repealed.

2 **Sec. 9. 21-A MRSA §122, sub-§9**, as amended by PL 2003, c. 395, §1, is further
3 amended to read:

4 **9. Regulation of registration monitors.** Anyone who wishes to monitor the names
5 and addresses of persons who are registering at the registrar's office or the clerk's office
6 shall inform the registrar or clerk of that intent. ~~Anyone who wishes to monitor the~~
7 ~~names and addresses of persons who are registering at the polling place shall inform the~~
8 ~~registrar or clerk of that intent~~ by submitting a written, signed statement containing the
9 proposed monitor's name, address and intent. The registrar or clerk may designate a place
10 where a person monitoring registrations may stand. The registrar or clerk shall then
11 announce the name and address of individuals registering to vote in a loud and clear
12 voice. A person monitoring registrations shall direct any questions the person has to the
13 registrar or clerk. These questions must be limited to information pertinent to the
14 qualifications of an individual to register. A person monitoring registrations may not ask
15 questions of individuals waiting to register concerning their eligibility to vote. ~~A polling~~
16 ~~place registration monitor may not handle or inspect registration cards, files or other~~
17 ~~materials used by the registrar or clerk except as provided in section 22.~~ A monitor may
18 not inhibit the work of the registrar or clerk. ~~If the work of a registrar or clerk appears to~~
19 ~~be inhibited, the warden may request a reduction in the number of monitors present in the~~
20 ~~polling place.~~ A registrar or clerk may require a person monitoring registrations who
21 violates the provisions of this subsection to leave the building.

22 **Sec. 10. 21-A MRSA §125**, as amended by PL 1997, c. 436, §24, is further
23 amended to read:

24 **§125. Notice of schedule**

25 The registrar shall publish the schedule established under section 122, subsection 6 ~~or~~
26 ~~as changed by the municipal officers under subsection 8~~, in a newspaper having general
27 circulation in the municipality at least 7 10 to 15 business days before the ~~schedule~~
28 ~~becomes effective~~ election, except that, in municipalities with a population of 2,500 or
29 fewer, ~~the publication of the time schedule by the registrar is discretionary rather than~~
30 ~~compulsory~~ may be done by another means the registrar considers sufficient to provide
31 adequate notice to the residents of the municipality.

32 **Sec. 11. 21-A MRSA §129, first ¶**, as amended by PL 1985, c. 383, §2, is further
33 amended to read:

34 When a voter's name is changed by marriage or other process of law, or when ~~he~~ the
35 voter moves within a municipality, the following provisions apply.

36 **Sec. 12. 21-A MRSA §129, sub-§1**, as enacted by PL 1985, c. 161, §6, is
37 amended to read:

38 **1. Notice.** The voter must give written notice to the registrar of ~~his~~ the voter's new
39 and former names or ~~addresses before the close of registrations~~ changes of address within
40 the municipality prior to casting a ballot on election day.

1 **Sec. 13. 21-A MRSA §129, sub-§3**, as amended by PL 1995, c. 459, §15, is
2 further amended to read:

3 **3. Failure to notify.** If a voter fails to notify the registrar of a change of name or
4 change of address within the municipality before the ~~close of registrations~~ registration
5 deadline in section 122, subsection 4-A, the voter must appear before the registrar on
6 election day and follow the procedure outlined in section 661 if the voter wishes to vote,
7 unless the registrar has already made the correction in following the procedure prescribed
8 by section 128. If the voter wishes to exercise the right to vote, the voter must vote using
9 the ballot or ballots for the new polling place, if applicable, on election day.

10 **Sec. 14. 21-A MRSA §130**, as amended by PL 2005, c. 453, §22, is further
11 amended to read:

12 **§130. Applications for voter registration**

13 A person who completes an application for registration to vote, as provided in section
14 152, may mail the application or have the application delivered to the registrar before the
15 closed period for the acceptance of mail or 3rd-person registrations in the person's
16 municipality, to be entered into the central voter registration system and placed on the
17 incoming voting list prior to the next election; except that applications completed under
18 section 122, subsection 5 may be delivered by the voter during the closed period by the
19 in-person registration deadline under section 122, subsection 4-A for immediate
20 placement on the incoming voting list.

21 **Sec. 15. 21-A MRSA §156, sub-§1**, as amended by PL 2005, c. 568, §7, is
22 further amended to read:

23 **1. Registration and enrollment.** A township resident who lives in a township for
24 which the county commissioners have not established a voting place as provided in
25 section 632 may register and enroll in any municipality within the applicant's
26 representative district or, if the applicant lives in a portion of a township not easily
27 accessible to a municipality within the representative district, the township resident may
28 register and enroll in a more convenient municipality within or outside the county. The
29 township resident ~~may must~~ register ~~and enroll on election day~~ according to the deadlines
30 established in section 122, subsection 4-A. The registrar shall designate the applicant as a
31 township voter with the letter "T" in the central voter registration system and on the
32 incoming voting list.

33 **Sec. 16. 21-A MRSA §661, sub-§1, ¶B**, as amended by PL 2005, c. 453, §54, is
34 further amended to read:

35 B. If the name or address of the voter was omitted by error from or placed
36 incorrectly on the incoming voting list and the registrar is able to determine that an
37 error has been made, the registrar shall issue a certificate to the voter containing the
38 voter's correct name and address and directed to the warden of the appropriate voting
39 place. The registrar shall correct the name and address on the incoming voting list
40 and in the central voter registration system.

1 **Sec. 17. 21-A MRSA §661, sub-§1, ¶D** is enacted to read:

2 D. If the registrar is unable to determine that an error was made, but the voter
3 declares the voter is registered to vote and eligible to vote in the municipality, the
4 voter must be permitted to vote a provisional ballot pursuant to section 673-A.

5 **Sec. 18. 21-A MRSA §671, sub-§2**, as amended by PL 2003, c. 584, §9, is
6 further amended to read:

7 **2. Enters guardrail enclosure.** The election clerk in charge of the incoming voting
8 list shall place a check mark or a horizontal line, in red ink, on the list beside the voter's
9 name and allow the voter to enter the area enclosed by the guardrail. If the person's name
10 does not appear on the incoming voting list, the warden shall inform the person of the
11 provisional voting process and, if the person meets the requirements to be a provisional
12 voter, shall allow the person to cast a provisional ballot as provided in section 673-A.

13 **Sec. 19. 21-A MRSA §673, sub-§1, ¶A**, as amended by PL 2007, c. 455, §32, is
14 further amended to read:

15 A. A voter or an election official may challenge another voter only upon personal
16 knowledge or a reasonably supported belief that the challenged voter is unqualified.
17 Only the following reasons for challenges may be accepted by the warden. The
18 challenged person:

- 19 ~~(1) Is not a registered voter;~~
20 (2) Is not enrolled in the proper party, if voting in a primary election;
21 (3) Is not qualified to be a registered voter because the challenged person:
22 (a) Does not meet the age requirements as specified in sections 111,
23 subsection 2 and section 111-A;
24 (b) Is not a citizen of the United States; or
25 (c) Is not a resident of the municipality or appropriate electoral district
26 within the municipality;
27 (4) Registered to vote during the closed period ~~or on election day~~ and did not
28 provide satisfactory proof of identity and residency to the registrar pursuant to
29 section 121, subsection 1-A, except that only an election official may challenge
30 for this reason;
31 (5) Did not properly apply for an absentee ballot;
32 (6) Did not properly complete the affidavit on the absentee return envelope;
33 (7) Did not cast the ballot or complete the affidavit before the appropriate
34 witness;
35 (8) Communicated with someone as prohibited by section 754-A, subsection 1,
36 paragraph B or subsection 3, paragraph B or D;
37 (9) Did not have the ballot returned to the clerk by the time prescribed;
38 (10) Voted using the name of another;

- 1 (11) Committed any other specified violation of this Title; or
2 (12) Voted using the wrong ballot for the appropriate electoral district or
3 political party, if applicable.

4 **Sec. 20. 21-A MRSA §673, sub-§6**, as reallocated by RR 2003, c. 1, §12, is
5 repealed.

6 **Sec. 21. 21-A MRSA §673-A** is enacted to read:

7 **§673-A. Provisional voting**

8 If a person declares that the person is a registered voter in the jurisdiction in which
9 the person desires to vote and that the person is eligible to vote in an election for federal
10 office, but the name of the person does not appear on the incoming voting list for the
11 voting place, such person must be permitted to cast a provisional ballot as follows.

12 **1. How issued.** The person must complete and sign a provisional ballot affidavit,
13 swear to or affirm the information before the warden and show proof of identity and
14 current residency in the municipality and voting district, if applicable. The provisional
15 ballot affidavit must be on a form designed by the Secretary of State and must include, at
16 a minimum, the person's name, address, party affiliation, if any, and reason that the
17 person believes the person is a registered voter in that jurisdiction.

18 **2. Ballot and provisional envelope issued.** As soon as the provisional ballot
19 affidavit form has been completed, the election clerk in charge of ballots shall give a
20 provisional ballot and a provisional ballot envelope to the warden. The warden shall
21 write a provisional ballot number on the affidavit form and the provisional ballot
22 envelope and give them to the voter. The warden also shall give the voter a notice about
23 provisional voting, on a form designed by the Secretary of State, that includes the
24 provisional ballot number assigned to the voter's ballot.

25 **3. Proceed to vote.** After the voter marks the provisional ballot, the voter shall seal
26 it in the provisional ballot envelope and return it to the warden.

27 **4. Provisional ballots segregated and logged.** The warden shall place every
28 provisional ballot envelope containing a completed provisional ballot in a tamper-proof
29 container until a determination of the person's eligibility to vote can be made. The
30 warden also shall complete a provisional ballot log, on a form provided by the Secretary
31 of State, that indicates for each provisional ballot the name of the voter, the provisional
32 ballot number and a notation of whether the provisional ballot was resolved and cast or
33 rejected. The sealed tamper-proof containers of provisional ballots that are not resolved
34 must be returned to the municipal clerk after the polls are closed, along with all
35 provisional ballot affidavits and the provisional ballot log form.

36 **5. Ballots relating to court order.** In an election for federal office, if a federal or
37 state court has issued an order extending the time established for closing the polls, any
38 ballots cast during the period of that extension must be treated as provisional ballots
39 according to this section.

1 **6. Resolution and counting of provisional ballots.** By the close of the polls if
2 possible, but no later than 3 business days after election day, the municipal clerk or
3 registrar shall review the information on the provisional ballot affidavits and determine
4 whether each voter is eligible to vote in the election. In making this determination, the
5 municipal clerk or registrar must review all voter registration information on file with the
6 municipality, including, but not limited to, the voter registration applications and attached
7 documentation, the incoming voter list from any previous election and information or
8 records in the central voter registration system. After reviewing the voter registration
9 information, the municipal clerk or registrar must proceed as follows:

10 A. If the person's eligibility to vote in the election is confirmed by the close of the
11 polls on election day, the clerk or registrar shall designate on the provisional ballot
12 log that the provisional ballot was accepted. The warden shall remove the
13 provisional ballot from the sealed provisional ballot envelope and place it into the
14 ballot box or tabulator to be counted with the other ballots after the polls close. The
15 warden shall annotate the incoming voting list to add the voter's name and address,
16 along with an indication that the voter voted.

17 B. If the person's eligibility to vote in the election is confirmed after the close of the
18 polls on election day, the clerk or registrar shall designate on the provisional ballot
19 log that the provisional ballot was accepted. The clerk or registrar, in the presence of
20 one or more witnesses, shall remove the provisional ballot from the sealed
21 provisional ballot envelope and place it into a ballot box in a manner that preserves
22 the secrecy of the vote. After all accepted provisional ballots have been placed into
23 the ballot box, the clerk or registrar shall remove and count the provisional ballots in
24 the same manner as regular ballots. After the incoming voting list is unsealed
25 following the election, the clerk or registrar shall annotate the list to add the names
26 and addresses of the voters under this subsection, along with an indication that the
27 voters voted.

28 C. If the eligibility of a voter cannot be confirmed, the clerk or registrar shall write
29 "rejected" on the provisional ballot envelope and return the unopened envelope to the
30 tamper-proof container. The clerk or registrar shall update the provisional ballot log
31 to indicate the ballot was rejected.

32 **7. Report to Secretary of State.** After all provisional ballots have been resolved,
33 but no later than 3 business days after election day, the clerk shall report the status of all
34 provisional ballots to the Secretary of State by providing a copy of the provisional ballot
35 log. In addition to annotating the provisional ballot log to indicate whether provisional
36 ballots were accepted or rejected, the clerk shall update the municipality's return of votes
37 cast to include the votes cast by all provisional voters who were determined to be eligible
38 to vote in the election.

39 **8. Secretary of State to make status available.** Within 20 days after any election,
40 the Secretary of State shall make available the status of the provisional ballots on the
41 Secretary of State's publicly accessible website, including whether the ballot was counted
42 and if not, the reason the ballot was not counted.

43 **Sec. 22. 21-A MRS §753-B, sub-§1,** as amended by PL 2009, c. 563, §2, is
44 further amended to read:

1 **1. Application or written request received.** Upon receipt of an application or
2 written request for an absentee ballot that is accepted pursuant to section 753-A, the clerk
3 shall immediately issue an absentee ballot and return envelope by mail or in person to the
4 applicant or to the immediate family member or to a 3rd person designated in a written
5 application or request made by the voter, ~~except that the clerk does not have to issue a~~
6 ~~ballot by mail to any voter whose request was received after 5:00 p.m. on the Thursday~~
7 ~~before election day as provided in subsection 2.~~ The clerk shall type or write in ink the
8 name and the residence address of the voter in the designated section of the return
9 envelope.

10 **Sec. 23. 21-A MRSA §753-B, sub-§2,** as enacted by PL 1999, c. 645, §6, is
11 repealed and the following enacted in its place:

12 **2. Restrictions on issuing ballot.** The clerk may not issue an absentee ballot:

13 A. To any 3rd person who is a candidate or a member of a candidate's immediate
14 family;

15 B. To an immediate family member or to a 3rd person if the absentee ballot was
16 requested by telephone;

17 C. To a 3rd person who already has been issued 5 absentee ballots for voters in the
18 municipality, until the 3rd person has returned one of those ballots; or

19 D. To any voter, immediate family member or 3rd person whose request was
20 received in the municipal office after the 3rd business day before election day, unless
21 the voter signs an application, designed by the Secretary of State, stating one of the
22 following reasons for requesting an absentee ballot on that day:

23 (1) Unexpected absence from the municipality during the entire time the polls
24 are open on election day;

25 (2) Physical disability or an incapacity or illness that has resulted in the voter's
26 being unable to leave home or a treatment facility; or

27 (3) Inability to travel to the polls if the voter is a resident of a coastal island ward
28 or precinct.

29 **Sec. 24. 21-A MRSA §753-B, sub-§8,** as amended by PL 2009, c. 253, §48, is
30 further amended to read:

31 **8. Absentee voting in presence of clerk.** A person who wishes to vote by absentee
32 ballot may, without completing an application, vote by absentee ballot in the presence of
33 the clerk, except as provided in subsection 2. The method of voting is otherwise as
34 prescribed in this article. After the person has voted, the clerk shall sign the affidavit on
35 the return envelope as a witness, indicate on the envelope that the voter voted in the
36 presence of a clerk and ensure that the affidavit on the return envelope is properly
37 completed by the voter. For the 45 days preceding an election, during the hours when the
38 clerk's office is open and may be conducting absentee voting, the display or distribution
39 of any advertising material intended to influence a voter's decision regarding a candidate
40 or question on the ballot for that election is prohibited within the clerk's office and on

1 public property within 250 feet of the entrance to the building in which the clerk's office
2 is located.

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

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

14 **Sec. 25. 21-A MRSA §777-A**, as amended by PL 2009, c. 563, §3, is further
15 amended to read:

16 **§777-A. Registration and enrollment**

17 ~~Uniformed~~ Notwithstanding the registration deadline in section 122, subsection 4-A,
18 uniformed service voters or overseas voters may register or enroll at any time by
19 completing a federal or state voter registration application form and filing it with the
20 registrar or the Secretary of State in person, by mail or by electronic means authorized by
21 the Secretary of State.

22 **SUMMARY**

23 This bill eliminates registration of new voters on election day and during the 2
24 business days before election day, but does allow an already registered voter who has had
25 a change of name or a change of address within the municipality to update voter
26 registration records up to and including on election day. This bill changes the minimum
27 hours required by the registrar to be open to accept new in-person registrations on the
28 deadline for registration before election day. The bill also changes the requirements for
29 the municipality to publish the registrar's hours for the deadline day in a newspaper
30 having general circulation in the municipality at least 10 to 15 business days before
31 election day, and provides that municipalities with a population of 2,500 or fewer may
32 give notice by other means the registrar considers sufficient to provide notice to the
33 voters. The bill establishes a provisional voting procedure, as required by the federal
34 Help America Vote Act of 2002, 42 United States Code, Section 15482, to allow a person
35 who has registered to vote but whose name was omitted from the voting list in error to
36 vote using a provisional ballot. The bill requires that the municipal clerk or registrar
37 resolve and either count or reject the provisional ballots within 3 business days after the
38 election and report the status of the provisional ballots to the Secretary of State. The
39 Secretary of State must publish the provisional ballot information on the Secretary of
40 State's publicly accessible website at least 20 days after the election, so that provisional
41 voters know whether or not their ballots were cast and counted. The bill also prohibits
42 the issuance of absentee ballots after the 3rd business day before election day, except

1 when the voter signs an application designating one of the allowable reasons for voting
2 by absentee ballot on that day.