

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

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Legislative Document

No. 1664

S.P. 563

In Senate, December 21, 2011

An Act To Amend the Election Laws

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

Received by the Secretary of the Senate on December 19, 2011. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

Joseph G. Carleton, Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator FARNHAM of Penobscot.

Cosponsored by Senators: COLLINS of York, COURTNEY of York, MASON of Androscoggin, PLOWMAN of Penobscot, SAVIELLO of Franklin, THIBODEAU of Waldo.

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

2 **Sec. 1. 21-A MRSA §23, sub-§7**, as amended by PL 2011, c. 342, §6, is further
3 amended to read:

4 **7. Ballots and other election materials.** ~~The~~ For 22 months following an election
5 in which a candidate for a federal office is on the ballot, the clerk shall keep the ballots,
6 envelopes and applications from voters who voted by absentee ballot and other election
7 materials listed in section 698 other than the incoming voting list tabulation materials
8 related to those ballots and challenge certificates, if any, in the clerk's office or other
9 secure location under the control of the clerk for 22 months following the election, unless
10 sooner released to the Secretary of State or required by the Secretary of State to be kept
11 longer. Once released to the Secretary of State, they must be kept by the Secretary of
12 State until any appeal period bearing on the validity of the election has expired.
13 Notwithstanding this subsection, ballots used for municipal elections conducted under
14 this Title, referenda elections or special legislative elections must be kept for 2 months.

15 **Sec. 2. 21-A MRSA §23, sub-§7-A**, as enacted by PL 2011, c. 342, §7, is
16 amended to read:

17 **7-A. Incoming voting lists.** ~~The~~ For 5 years following any election, the clerk shall
18 keep the incoming voting lists in the clerk's office for 2 years following the election or
19 other secure location under the control of the clerk.

20 **Sec. 3. 21-A MRSA §23, sub-§7-B** is enacted to read:

21 **7-B. Absentee envelopes and applications.** For 2 years following any election, the
22 clerk shall keep the absentee ballot envelopes, including the unopened envelopes
23 containing rejected absentee ballots, the applications for absentee ballots and the list of
24 voters who were issued absentee ballots in the clerk's office or other secure location under
25 the control of the clerk.

26 **Sec. 4. 21-A MRSA §121, sub-§1-A**, as amended by PL 2005, c. 453, §12, is
27 further amended to read:

28 **1-A. Identification and proof.** Registration applications taken by outside agencies
29 must be transferred to the Secretary of State within 5 days of receipt. An applicant who
30 attempts to register within 30 days of an election must be advised that the registrar might
31 not receive the application before ~~that election~~ the deadline for mail or 3rd-person
32 registration set forth in section 121-A, but that the applicant may register in person before
33 or on election day no later than the deadline for in-person registration set forth in section
34 121-A.

35 Registration applications received by the Secretary of State from outside agencies 30 days
36 or more before an election must be transferred to the appropriate registrar's office within
37 7 business days of receipt. Registration applications received by the Secretary of State
38 from outside agencies less than 30 days before an election must be transferred to the
39 appropriate registrar's office within 5 business days of receipt. Registration applications
40 by mail or by a 3rd person must be received in the registrar's office by the close of

1 business on the 21st day before election day in order for persons' names to appear on the
2 incoming voting list for that election. The 20-day period before the election is the closed
3 period for outside registrations. The registrar shall send the notice required by section
4 122 to all voters whose applications were received by mail or a 3rd person by the 21st
5 day before election day no later than the 18th day before election day.

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

12 **Sec. 5. 21-A MRSA §121-A** is enacted to read:

13 **§121-A. Deadline for registration**

14 The deadline for receipt of voter registration applications submitted by mail or by a
15 3rd person is the close of business on the 21st day before election day. The deadline for
16 in-person registration is the close of the polls on election day.

17 **Sec. 6. 21-A MRSA §122, first ¶**, as amended by PL 2003, c. 584, §3, is further
18 amended to read:

19 A person may register ~~as a voter to vote in person~~ by appearing before the registrar
20 by the registration deadline in section 121-A, proving that the person meets the
21 qualifications of section 111, subsections 1 to 3, and filing an application provided by the
22 registrar containing the information required by section 152 or 154, if applicable.
23 Township residents may register as provided in section 156.

24 **Sec. 7. 21-A MRSA §125**, as amended by PL 1997, c. 436, §24, is further
25 amended to read:

26 **§125. Notice of schedule**

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

34 **Sec. 8. 21-A MRSA §129, sub-§3**, as amended by PL 1995, c. 459, §15, is
35 further amended to read:

36 **3. Failure to notify.** If a voter fails to notify the registrar of a change of name or
37 change of address before the close of registrations election day, the voter must appear
38 before the registrar on election day and follow the procedure outlined in section 661 if the
39 voter wishes to vote, unless the registrar has already made the correction in following the

1 procedure prescribed by section 128. If the voter wishes to exercise the right to vote, the
2 voter must vote using the ballot or ballots for the new polling place, if applicable, on
3 election day.

4 **Sec. 9. 21-A MRSA §130**, as amended by PL 2005, c. 453, §22, is further
5 amended to read:

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

7 A person who completes ~~an a voter registration application for registration to vote~~, as
8 provided in section 152, may mail the application or have the application delivered to the
9 registrar in the person's municipality of residence before the closed period for the
10 acceptance of deadline for mail or 3rd-person registrations in the person's municipality
11 section 121-A, to be entered into the central voter registration system and placed on the
12 incoming voting list prior to the next election; except that applications completed under
13 section 122, subsection 5 may be delivered during the closed period for immediate
14 placement on the incoming voting list.

15 **Sec. 10. 21-A MRSA §156, sub-§2**, as amended by PL 2001, c. 310, §12, is
16 further amended to read:

17 **2. Voting.** The township voter may vote in the town in which the voter is registered
18 in any election for offices of or questions concerning the unorganized territory in which
19 the voter resides. The voter may not vote at a municipal election or on a liquor option
20 question. If the voter registers in a town outside the voter's state representative district,
21 state senatorial district, county or county commissioner district ~~or county~~, the voter may
22 vote for the offices of Representative to the Legislature, State Senator or any county
23 office by using a ballot provided under section 606-A. If the township voter registers to
24 vote less than 60 days before the election or on election day and the town has not been
25 provided with the township voter's proper ballot under section 606-A, the township voter
26 may not vote for any offices or questions outside the voter's electoral districts. The
27 election clerk in charge of the ballots shall mark a line through the names of the offices
28 and candidates and questions for which the voter may not vote.

29 **Sec. 11. 21-A MRSA §196-A, sub-§1, ¶E**, as enacted by PL 2009, c. 564, §8, is
30 amended to read:

31 E. The Secretary of State or a registrar may make available, upon the request of any
32 other governmental or quasi-governmental entity, certain voter information for that
33 entity's authorized use only. The following information may be provided in
34 electronic form and free of charge: the voter's name, year of birth, residence address,
35 mailing address, electoral districts, voter status, date of registration or date of change
36 of the voter record if applicable, voter record number and any special designations
37 indicating uniformed service voters, overseas voters or township voters. Data made
38 available under this paragraph may not be used for solicitation or for purposes other
39 than the governmental or quasi-governmental entity's authorized activities and may
40 not be redistributed.

1 Authorized uses of the data by the Legislature include providing voter information to
2 a Legislator for purposes of communicating with the Legislator's constituents and
3 conducting legislative business.

4 **Sec. 12. 21-A MRSA §355, sub-§1**, as amended by PL 2011, c. 239, §2, is
5 further amended to read:

6 **1. Consent.** The consent must contain a statement signed by the candidate that the
7 candidate will accept the nomination of the ~~primary~~ general election. The Secretary of
8 State shall provide a form on which the consent of the candidate is made that must
9 include a list of the statutory and constitutional requirements of the office sought by the
10 candidate. The statement may be printed as a part of the nomination petition.

11 **Sec. 13. 21-A MRSA §605-A, sub-§2, ¶D**, as enacted by PL 2011, c. 342, §15,
12 is amended to read:

13 D. The Treasurer's Statement must be prepared according to Title 5, section 152 to
14 accompany ballots containing any statewide bond issues. The Secretary of State ~~must~~
15 include shall supply written instructions ~~on to~~ to each ~~referendum ballot that~~
16 municipality, which may be provided to an absentee voter to indicate where the voter
17 may view the Treasurer's Statement on the Secretary of State's publicly accessible
18 website.

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

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

- 25 ~~(1) Is not a registered voter;~~
26 (2) Is not enrolled in the proper party, if voting in a primary election;
27 (3) Is not qualified to be a registered voter because the challenged person:
28 (a) Does not meet the age requirements as specified in sections 111,
29 subsection 2 and section 111-A;
30 (b) Is not a citizen of the United States; or
31 (c) Is not a resident of the municipality or appropriate electoral district
32 within the municipality;
33 (4) Registered to vote during the closed period or on election day and did not
34 provide satisfactory proof of identity and residency to the registrar pursuant to
35 section 121, subsection 1-A, except that only an election official may challenge
36 for this reason;
37 (5) Did not properly apply for an absentee ballot;
38 (6) Did not properly complete the affidavit on the absentee return envelope;

- 1 (7) Did not cast the ballot or complete the affidavit before the appropriate
2 witness;
- 3 (8) Communicated with someone as prohibited by section 754-A, subsection 1,
4 paragraph B or subsection 3, paragraph B or D;
- 5 (9) Did not have the ballot returned to the clerk by the time prescribed;
- 6 (10) Voted using the name of another;
- 7 (11) Committed any other specified violation of this Title; or
- 8 (12) Voted using the wrong ballot for the appropriate electoral district or
9 political party, if applicable.

10 **Sec. 15. 21-A MRSA §711, sub-§4**, as enacted by PL 2011, c. 342, §28, is
11 amended to read:

12 **4. Authority to open tamper-proof ballot security containers.** After giving notice
13 to the state chair of each political party, the Secretary of State may authorize the
14 municipal clerk, in the presence of one or more witnesses ~~and in the presence of the~~
15 ~~warden and an election clerk~~ from each of the major parties, to open the sealed tamper-
16 proof ballot security containers as described in section 609 holding used ballots to
17 retrieve the incoming voting list or a copy of any election return forms that were
18 improperly sealed in the containers. If there is a recount requested for a local election
19 that was held at the same time as a state election, the Secretary of State may authorize
20 these election officials to open the sealed tamper-proof ballot security containers to
21 remove any local ballots that were sealed in the containers of state ballots, except that any
22 requested state recount must be held prior to such authorization. The Secretary of State
23 also may authorize these election officials to review and make copies of tabulation sheets
24 that would assist in properly reporting or correcting the results recorded on election night,
25 as well as to review machine-tabulated ballots that were hand counted because they were
26 not read by the tabulator or because they contained write-in votes, and to correct errors in
27 the hand tabulation. The clerk must reseal the containers and secure them for the
28 remainder of the time required for retention of ballots under section 23.

29 **Sec. 16. 21-A MRSA §753-B, sub-§2, ¶B**, as enacted by PL 2011, c. 399, §23,
30 is amended to read:

31 B. To an immediate family member or to a 3rd person if the absentee ballot was
32 requested by telephone or by electronic means;

33 **Sec. 17. 21-A MRSA §753-B, sub-§2, ¶D**, as enacted by PL 2011, c. 399, §23,
34 is amended to read:

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

- 39 (1) Unexpected absence from the municipality during the entire time the polls
40 are open on election day;

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

3 (3) Inability to travel to the polls if the voter is a resident of a coastal island ward
4 or precinct; ~~or~~

5 (4) An incapacity or illness that has resulted in the voter's being unable to leave
6 home or a treatment facility.

7 **Sec. 18. 21-A MRSA §753-B, sub-§4**, as amended by PL 2011, c. 40, §1, is
8 further amended to read:

9 **4. Duplicate ballot.** The clerk may issue a duplicate state absentee ballot to an
10 applicant if the initially issued ballot has not already been marked and returned to the
11 clerk, the applicant requests one by an acceptable method outlined in this subchapter and:

12 A. The applicant states good cause, including, but not limited to, loss of, spoiling of
13 or damage to the first absentee ballot. Good cause does not include an applicant's
14 decision to change the applicant's vote after the applicant has returned the ballot to
15 the clerk; or

16 B. An absentee ballot for the applicant that was furnished to a designated 3rd person
17 was not returned to the clerk's office within the time limit provided in subsection 3.
18 If a ballot for an applicant is not returned to the clerk within that time limit, the clerk
19 shall mail or hand deliver a ballot to that applicant and may not issue another ballot to
20 the applicant except for good cause as provided in this subsection. This paragraph
21 does not affect the deadline for delivery of absentee ballots under section 755.

22 The clerk may issue a 2nd state absentee ballot to a voter from whom the clerk has
23 received a return envelope apparently containing a state absentee ballot when the State
24 has provided the clerk with replacement ballots to reflect the removal of a candidate's
25 name or the addition of a new candidate's name or the correction of an error or when the
26 absentee ballot envelope has a defect in the affidavit that would cause the ballot to be
27 rejected. When a 2nd state absentee ballot is issued to a voter under this section, the clerk
28 must write the words "second ballot issued" on the return envelope.

29 **Sec. 19. 21-A MRSA §753-B, sub-§5**, as corrected by RR 2001, c. 2, Pt. A, §28,
30 is amended to read:

31 **5. Alternate method of balloting by residents of certain licensed facilities.** The
32 municipal clerk shall designate one or more times during the 30-day period prior to an
33 election during which the municipal clerk shall be present in each licensed nursing home
34 subject to the provisions of Title 22, chapter 405; licensed residential care facility subject
35 to the provisions of Title 22, chapter 1664; and assisted housing program subject to the
36 provisions of Title 22, chapter 1664, in the municipality for the purpose of conducting
37 absentee voting by residents of these facilities. The licensed residential care facilities or
38 assisted housing programs referred to in this subsection are those that are licensed ~~as~~
39 Level II facilities to have 6 or more beds. The clerk shall designate which areas in these
40 facilities constitute the voting place, the voting booth and the guardrail enclosure.
41 Sections 681 and 682 apply to voting in these facilities within the areas designated by the
42 clerk.

1 **Sec. 20. 21-A MRSA §777-A**, as amended by PL 2009, c. 563, §3, is further
2 amended to read:

3 **§777-A. Registration and enrollment**

4 ~~Uniformed~~ Notwithstanding the registration deadline in section 121-A, uniformed
5 service voters or overseas voters may register or enroll at any time by completing a
6 federal or state voter registration application form and filing it with the registrar or the
7 Secretary of State in person, by mail or by electronic means authorized by the Secretary
8 of State.

9 **Sec. 21. 21-A MRSA §781-A**, as amended by PL 2009, c. 563, §7, is further
10 amended to read:

11 **§781-A. Absentee ballot application; procedure on receipt**

12 ~~Upon~~ Notwithstanding the absentee ballot application deadline in section 753-B,
13 subsection 2, paragraph D, upon receipt of an application or written request for an
14 absentee ballot from a uniformed service voter or overseas voter that is accepted pursuant
15 to section 753-A or section 783, the clerk or the Secretary of State shall immediately
16 issue an absentee ballot and return envelope by the authorized means designated by the
17 voter in the application. If the ballot is to be transmitted to the voter by mail, the clerk or
18 the Secretary of State shall type or write in ink the name and the residence address of the
19 voter in the designated section of the return envelope. The Secretary of State shall
20 provide a return envelope that moves free of postage under federal law.

21 **SUMMARY**

22 This bill clarifies the retention period for ballots and election materials, moves the
23 retention of absentee ballot materials into its own provision of law and increases the
24 retention period for incoming voting lists from 2 years to 5 years following an election.
25 The bill creates a separate section of law in which the deadline for registration is
26 provided. The bill changes the date by which a municipality must publish the schedule
27 before an election. The bill provides that when a township voter registers to vote less
28 than 60 days before an election in a municipality that has different electoral districts from
29 the township and the municipality has not received the voter's proper ballot, the township
30 voter is not entitled to vote for offices or questions that are within those different districts
31 and the election clerk must mark the ballot accordingly. The bill also adds year of birth
32 to the voter registration data that may be obtained for authorized use by a governmental
33 or quasi-governmental agency. The bill corrects an error in the law regarding the
34 nomination of nonparty candidates from a reference to the primary election to a reference
35 to the general election. The bill also requires the Secretary of State to provide written
36 instructions to municipalities to be used to direct absentee voters to the publicly
37 accessible website where the Treasurer's Statement for a statewide bond issue may be
38 viewed. The bill removes from the allowable reasons for challenging a person's right to
39 vote that the person is not a registered voter. The bill adds to the circumstances under
40 which the Secretary of State may authorize a municipal clerk to open the state tamper-
41 proof ballot containers after the election. The bill clarifies the restrictions on issuing an

1 absentee ballot. The bill adds to the circumstances in which a duplicate absentee ballot
2 may be issued to a voter the situation in which there is a defect on the voter's affidavit on
3 the absentee ballot envelope that would cause the ballot to be rejected. The bill also
4 clarifies the types of facilities where the municipal clerk is required to go to conduct
5 absentee voting during the 30 days prior to an election. The bill also provides that the
6 deadlines for voter registration and requesting an absentee ballot do not apply to
7 uniformed service voters and overseas voters.