

MAINE STATE LEGISLATURE

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Date: 4/11/19 Minority

L.D. 322
(Filing No. H- 94)

VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 247, L.D. 322, Bill, "An Act To Strengthen Maine's Election Laws by Requiring Photographic Identification for the Purpose of Voting"

Amend the bill by inserting after the title and before the enacting clause the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 21-A MRSA §671, sub-§1, as amended by PL 2005, c. 453, §55, is further amended to read:

1. Name announced; proof of identity. A voter who wishes to vote must state the voter's name and present proof of identity in the form of a photographic identification document and, upon request, state the voter's residence address to an election clerk, who shall announce the name in a loud, clear voice. Photographic identification required by this subsection must be an official identification document or card issued by a state, the Federal Government or a college or university located in the State, or an electronic benefits transfer card under Title 22, chapter 1, subchapter 1-A that displays an identifying photograph, and may not be expired. An election worker may use the photographic identification required by this subsection solely for the purpose of verifying the identity of the person who wishes to vote. If a person who wishes to vote does not present photographic identification, that person must be permitted to cast a provisional ballot as provided by section 671-A. Before November 6, 2020, the identity of a person who does not present photographic proof of identity but is known to an election worker, as defined in subsection 1-A, at the voting place may be verified as provided in subsection 1-A.

COMMITTEE AMENDMENT

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Sec. 2. 21-A MRSA §671, sub-§1-A is enacted to read:

1-A. Voter known to election worker; verification of identity. A voter who does not provide photographic identification on election day as required by subsection 1 and is known to an election worker at the voting place may be issued a ballot after completion and signing of an affidavit by the election worker. The affidavit must be in a form prescribed by the Secretary of State and must be written to indicate that the election worker can personally attest to the identity of the voter. The election worker may issue the voter a ballot after the election worker who can attest to the identity of the voter has signed the affidavit. For the purposes of this subsection, "election worker" includes a municipal clerk, registrar and election official. This subsection is repealed November 6, 2020.

Sec. 3. 21-A MRSA §671-A is enacted to read:

§671-A. Provisional voting

A person who has not provided photographic identification as required by section 671, subsection 1 and has not had the person's identity verified by affidavit as provided in section 671, subsection 1-A must be permitted to cast a provisional ballot as follows.

1. Provisional ballot affidavit. In order to cast a provisional ballot under this section, a person must complete and sign a provisional ballot affidavit, swearing to or affirming that that person is the person that person claims to be on the incoming voting list. The provisional ballot affidavit must be on a form designed by the Secretary of State and must include, at a minimum, the person's name, address, party affiliation, if any, and reason that the person was not able to provide photographic proof of identity.

2. Provisional ballot and provisional ballot envelope issued. As soon as the provisional ballot affidavit form under subsection 1 has been completed, the election clerk in charge of ballots shall give a provisional ballot and a provisional ballot envelope to the warden. The warden shall write a provisional ballot number on the affidavit form and the provisional ballot envelope and give the ballot and envelope to the voter. The warden also shall give the voter a notice about provisional voting, on a form designed by the Secretary of State, that includes the provisional ballot number assigned to the voter's ballot. The form must clearly state that the person who wishes to vote has 3 business days to provide the municipal clerk, deputy clerk, warden or election clerk photographic proof of identity as prescribed in section 671, subsection 1 in order for the provisional ballot to be counted.

3. Proceed to vote. After a voter marks the provisional ballot under subsection 2, the voter shall seal it in the provisional ballot envelope and return it to the warden.

4. Provisional ballots segregated and logged. The warden shall place a provisional ballot envelope containing a provisional ballot completed under this section in a tamper-proof container until the identity of the person marking the ballot can be verified by photographic identification as required by section 671, subsection 1. The warden also shall complete a provisional ballot log, on a form provided by the Secretary of State, that indicates for each provisional ballot the name of the voter, the provisional ballot number and a notation of whether the provisional ballot was resolved and cast. The sealed tamper-proof containers of provisional ballots that are not resolved must be returned to

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1 the municipal clerk after the polls are closed. Provisional ballot affidavits and the
2 provisional ballot log form must be sealed in tamper-proof containers separately from the
3 provisional ballots and returned to the clerk.

4 **5. Resolution and counting of provisional ballots.** When a provisional ballot is
5 cast under this section, the municipal clerk or registrar shall proceed as follows.

6 A. If the identity of a person casting a provisional ballot under this section is verified
7 upon presentation of acceptable photographic identification by the close of the polls
8 on election day, the clerk or registrar shall designate on the provisional ballot log
9 under subsection 4 that the provisional ballot was accepted. The warden shall remove
10 the provisional ballot from the sealed provisional ballot envelope and place it into the
11 ballot box or tabulator to be counted with the other ballots after the polls close. The
12 election clerk in charge of the incoming voting list shall annotate the incoming voting
13 list to indicate that the voter voted.

14 B. If the identity of a person casting a provisional ballot under this section is verified
15 upon presentation of acceptable photographic identification after the close of the polls
16 on election day, but not later than the 3rd business day after the election, the clerk or
17 registrar shall designate on the provisional ballot log under subsection 4 that the
18 provisional ballot was accepted. The clerk or registrar, in the presence of one or more
19 witnesses, shall remove the provisional ballot from the sealed provisional ballot
20 envelope and place it into a ballot box in a manner that preserves the secrecy of the
21 vote. After all accepted provisional ballots have been placed into the ballot box, the
22 clerk or registrar shall remove and count the provisional ballots in the same manner
23 as regular ballots. After the incoming voting list is unsealed following the election,
24 the clerk or registrar shall annotate the list to add the names and addresses of the
25 voters under this paragraph, along with an indication that the voters voted.

26 C. If a person casting a provisional ballot under this section has not presented
27 photographic identification acceptable to verify the person's identity within 3
28 business days after the election, the clerk or registrar shall write "rejected" on the
29 provisional ballot envelope and return the unopened envelope to the tamper-proof
30 container. The clerk or registrar shall update the provisional ballot log under
31 subsection 4 to indicate the ballot was rejected.

32 D. Rejected provisional ballots, provisional ballot affidavits and provisional ballot
33 logs must be maintained as provided by section 23, subsection 7.

34 **6. Report to Secretary of State.** No later than 3 business days after an election, the
35 clerk shall report the status of all provisional ballots of the municipality under this section
36 to the Secretary of State by providing a copy of the provisional ballot log under
37 subsection 4. In addition to annotating the provisional ballot log to indicate whether
38 provisional ballots were accepted or rejected, the clerk shall update the municipality's
39 return of votes cast to include the votes cast by all provisional voters who presented
40 acceptable photographic identification.

41 **7. Secretary of State to make status available.** Within 20 days after an election,
42 the Secretary of State shall make available on the Secretary of State's publicly accessible
43 website the total number of provisional ballots under this section for that election,
44 including the number of ballots that were counted and the number of ballots that were not

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counted. For a ballot that was not counted, the reason the ballot was not counted must be included.

Sec. 4. 29-A MRSA §1410, sub-§12 is enacted to read:

12. Identification cards for the purpose of voting. A person who submits an application for a nondriver identification card is not required to pay the fee required by subsection 2 if the person attests in the application that:

A. The person does not have photographic identification acceptable for the verification of the person's identity for the purpose of voting as required by Title 21-A, section 671, subsection 1; and

B. The person is applying for a nondriver identification card solely for the purpose of voting.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

**SECRETARY OF STATE, DEPARTMENT OF
Bureau of Administrative Services and Corporations 0692**

Initiative: Provides funding to produce state identification cards, perform programming changes, generate provisional ballots and affidavits and conduct voter outreach.

GENERAL FUND	2019-20	2020-21
All Other	\$397,980	\$322,980
GENERAL FUND TOTAL	<u>\$397,980</u>	<u>\$322,980</u>

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the minority report of the committee, strikes and replaces the bill and adds a mandate preamble. The amendment requires that a voter provide proof of identity with photographic identification for the purpose of voting. The amendment specifies the types of photographic identification that may be used to verify the identity of a voter. It provides that a person who does not present photographic identification may cast a provisional ballot and establishes the process for provisional voting. Under this process, if the person can verify the person's identity to the municipal clerk, deputy clerk or warden or an election clerk within 3 business days of the election by presenting acceptable photographic identification, the ballot will be cast as a regular ballot. Through the general election of 2020, a person who does not present acceptable photographic identification but is known to a municipal clerk, registrar or election official at the voting place may cast a regular ballot upon submission of an affidavit by the municipal clerk, registrar or election official attesting to the person's identity. Finally, the amendment requires the Secretary of State to provide, at no fee, nondriver identification cards to

R O P S

COMMITTEE AMENDMENT "A" to H.P. 247, L.D. 322

1 eligible persons who do not have another form of acceptable photographic identification
2 to verify identity for the purpose of voting.

3 The amendment adds an appropriations and allocations section.

4 **FISCAL NOTE REQUIRED**

5 **(See attached)**



Approved: 04/01/19 *MRC*

129th MAINE LEGISLATURE

LD 322

LR 158(02)

An Act To Strengthen Maine's Election Laws by Requiring Photographic Identification for the Purpose of Voting

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-94)
Committee: Veterans and Legal Affairs
Fiscal Note Required: Yes

Fiscal Note

State Mandate - Exempted

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	\$397,980	\$322,980	\$65,600	\$65,600
Highway Fund	\$300,000	\$150,000	\$0	\$0
Appropriations/Allocations				
General Fund	\$397,980	\$322,980	\$65,600	\$65,600
Revenue				
Highway Fund	(\$300,000)	(\$150,000)	\$0	\$0

State Mandates

Required Activity

Establishes a provisional voting process requiring election officials to track provisional ballots and provisional ballot affidavits, complete a provisional ballot log and report the status of all provisional ballots to the Secretary of State.

Unit Affected

Municipality

Local Cost

Moderate statewide

Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional costs.

Fiscal Detail and Notes

The bill includes General Fund appropriations to the Department of Secretary State of \$397,980 in fiscal year 2019-20 and \$322,980 in fiscal year 2020-21 to produce state identification cards, perform programming changes, generate provisional ballots and affidavits and conduct voter outreach.

Highway Fund revenue would be reduced by \$300,000 in fiscal year 2019-20 and \$150,000 in fiscal year 2020-21 as a result of issuing free nondriver identification cards to any individual who needed a card to vote.