

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1274

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H.P. 934

House of Representatives, March 29, 2021

### An Act Regarding 2021 Municipal Elections and Town Meetings

(EMERGENCY)

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Received by the Clerk of the House on March 25, 2021. Referred to the Committee on State and Local Government pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative HEPLER of Woolwich.  
Cosponsored by Representatives: BERRY of Bowdoinham, HARNETT of Gardiner, Senators:  
BREEN of Cumberland, MOORE of Washington.

1           **Emergency preamble.** **Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** the spread of the novel coronavirus referred to as COVID-19 has created a  
4 public health emergency; and

5           **Whereas,** in response to COVID-19, the World Health Organization has declared a  
6 pandemic, the President of the United States has declared a national emergency and the  
7 Governor of Maine has declared a civil state of emergency; and

8           **Whereas,** state and federal authorities, including the federal Centers for Disease  
9 Control and Prevention, the Department of Health and Human Services, Maine Center for  
10 Disease Control and Prevention and the Governor have recommended or placed limits on  
11 public gatherings; and

12           **Whereas,** the most recommended ways of avoiding infection and furthering the  
13 spread of the virus that causes COVID-19 are for authorities to reduce the number of public  
14 gatherings and for people to avoid large crowds; and

15           **Whereas,** municipal leaders seek to ensure public safety by acting in concert with  
16 public health guidelines to discourage large gatherings and also recognize the likelihood of  
17 low voter turnout at meetings or elections held, depriving voters of full participation in  
18 municipal decisions; and

19           **Whereas,** there is no procedure in Maine law to postpone a municipal secret ballot  
20 election or nomination process already in progress, and delay of municipal budget meetings  
21 will deprive municipal authorities of legal authority to spend and continue operations; and

22           **Whereas,** it is imperative that action be taken at the earliest possible moment to allow  
23 for continuity of services by municipalities despite the need to postpone meetings; and

24           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
25 the meaning of the Constitution of Maine and require the following legislation as  
26 immediately necessary for the preservation of the public peace, health and safety; now,  
27 therefore,

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

29           **Sec. 1. Failure to pass municipal budget; deemed approved; tax**  
30 **commitment.** Notwithstanding any law or municipal charter provision to the contrary, if  
31 an annual municipal budget meeting is delayed beyond the date the annual budget is  
32 customarily submitted to the legislative body of that municipality for approval due to public  
33 health concerns arising from coronavirus disease 2019, referred to in this Act as  
34 COVID-19, the prior year's approved or deemed approved municipal budget is deemed the  
35 budget for the ensuing year until a final budget is approved. If a final budget is not  
36 approved in a timely manner and the municipal officers determine that property taxes must  
37 be committed in a timely manner to the tax collector pursuant to the Maine Revised  
38 Statutes, Title 36, section 709, the municipal assessor may commit property taxes on the  
39 basis of the municipal budget deemed approved under this section.

40           **Sec. 2. Individual authorization of disbursements by municipal treasurer.**  
41 Notwithstanding the Maine Revised Statutes, Title 30-A, section 5603, subsection 2,  
42 paragraph A or any other law or municipal charter provision or ordinance to the contrary,

1 for the duration of a state of emergency declared by the Governor in accordance with Title  
2 37-B, section 742 due to the outbreak of COVID-19 and for 30 days following the  
3 termination of that state of emergency, a municipal treasurer may disburse money on the  
4 authority of a warrant drawn for that purpose seen and signed individually by a majority of  
5 the municipal officers outside of a public meeting.

6 **Sec. 3. Postponement of secret ballot election.** Notwithstanding any law or  
7 municipal charter provision or ordinance to the contrary, during calendar year 2021, the  
8 municipal officers may postpone the date of a scheduled municipal secret ballot election  
9 when nomination papers have already been issued or filed by posting notice in a  
10 conspicuous public location at least 2 days prior to the date of the election. The notice must  
11 be signed by a majority of the municipal officers and must either:

12 1. State a specific date and time during which the polls will be open to complete the  
13 election; or

14 2. State that the date of a rescheduled election will be determined by the municipal  
15 officers.

16 The rescheduled election must be noticed by a warrant calling the election that is  
17 approved and posted pursuant to the Maine Revised Statutes, Title 30-A, section 2523 at  
18 least 7 days prior to the date of the rescheduled election.

19 If ballots have been printed for the postponed election, the municipality may use those  
20 ballots despite inclusion of the original election date. If absentee ballots have been issued  
21 and returned, the municipality shall use the ballots printed for the originally scheduled  
22 election. The municipal clerk shall safeguard and secure any absentee ballots already  
23 returned until the date of the rescheduled election and shall process them as required by the  
24 Maine Revised Statutes, Title 21-A. During the interim period between the originally  
25 scheduled election and rescheduled election, the clerk may continue to issue and accept  
26 absentee ballots and applications and allow voting in the presence of the clerk pursuant to  
27 Title 21-A.

28 A municipal secret ballot referendum election is subject to the same rescheduling,  
29 ballot and absentee ballot provisions as set forth in this section.

30 **Sec. 4. Referendum vote hearing requirement.** The hearing required by the  
31 Maine Revised Statutes, Title 30-A, section 2528, subsection 5 or municipal charter before  
32 a referendum vote may be conducted via remote means following the requirements  
33 established for remote board meetings in Public Law 2019, chapter 617, Part G.

34 **Sec. 5. Secret ballot election.** Notwithstanding any law or municipal charter  
35 provision to the contrary, the Maine Revised Statutes, Title 30-A, section 2528, subsection  
36 1 is suspended to allow the municipal officers of a municipality that has not voted to accept  
37 secret ballot voting to nevertheless do so during the state of emergency declared by the  
38 Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19.  
39 Elected officials in those municipalities may remain in office until an election pursuant to  
40 Title 30-A, section 2525.

41 **Sec. 6. Referendum wording deadline.** The requirement in the Maine Revised  
42 Statutes, Title 30-A, section 2528, subsections 4 and 5 that municipal officers file with the  
43 clerk an order establishing the wording of a referendum question by the 60th day before a

1 referendum election is suspended and modified to provide for such filing by the 30th day  
2 before the referendum.

3 **Sec. 7. Written ballot exception.** Solely to the extent that the Maine Revised  
4 Statutes, Title 30-A, section 5721-A, subsection 7, paragraph A requires a written ballot to  
5 exceed or increase the property tax levy limit at an open town meeting held in compliance  
6 with relevant gathering limits, it is suspended in favor of either a show of hands or a voice  
7 vote during the state of emergency declared by the Governor in accordance with Title 37-B,  
8 section 742 due to the outbreak of COVID-19.

9 **Sec. 8. Retroactivity; repeal.** This Act applies retroactively to January 15, 2021  
10 and is repealed January 15, 2022.

11 **Emergency clause.** In view of the emergency cited in the preamble, this legislation  
12 takes effect when approved.

### 13 SUMMARY

14 This bill:

15 1. Deems approved a municipal budget that was approved or deemed approved in the  
16 prior year if an annual budget meeting is delayed beyond the date an annual budget is  
17 customarily submitted to a legislative body of a municipality for approval due to public  
18 health concerns arising from COVID-19;

19 2. Permits municipal assessors to commit property taxes on the basis of a municipal  
20 budget deemed approved;

21 3. Permits a municipal treasurer to disburse money on the authority of a warrant drawn  
22 for that purpose seen and signed individually by a majority of the municipal officers outside  
23 of a public meeting, notwithstanding the Maine Revised Statutes, Title 30-A, section 5603,  
24 subsection 2, paragraph A or any other law or municipal charter provision or ordinance to  
25 the contrary, for the duration of the state of emergency declared by the Governor due to the  
26 outbreak of COVID-19 and for 30 days following its termination;

27 4. Permits municipal officers during the calendar year 2021 to postpone the date of a  
28 scheduled secret ballot election for which nomination papers have already been issued or  
29 filed by posting notice in a conspicuous public location at least 2 days prior to the date of  
30 the election. The notice must be signed by a majority of the municipal officers and must  
31 either state a specific date and time during which the polls will be open to complete the  
32 election or state that the date of a rescheduled election will be determined by the municipal  
33 officers;

34 5. Provides that any secret ballot election rescheduled under this Act must be noticed  
35 by a warrant calling the election that is approved and posted pursuant to Title 30-A, section  
36 2523 at least 7 days prior to the date of the rescheduled election;

37 6. Permits municipalities to use ballots that were printed for a postponed secret ballot  
38 election despite the inclusion of the original election date;

39 7. Requires municipalities to use ballots that were printed for an originally scheduled  
40 secret ballot election if absentee ballots have been issued and returned;

- 1           8. Requires a municipal clerk to safeguard and secure any absentee ballots already  
2 returned until the date of a rescheduled secret ballot election and process them as required  
3 by Title 21-A;
- 4           9. Permits a municipal clerk to issue and accept absentee ballots and applications and  
5 to allow voting in the presence of the clerk pursuant to Title 21-A during the period between  
6 the originally scheduled secret ballot election and the rescheduled secret ballot election;
- 7           10. Applies the rescheduling, ballot and absentee ballot provisions of this Act to  
8 municipal secret ballot referendum elections;
- 9           11. Permits a hearing required by Title 30-A, section 2528, subsection 5 or municipal  
10 charter before a referendum vote to be held via remote means;
- 11           12. Suspends Title 30-A, section 2528, subsection 1 to allow the municipal officers of  
12 any municipality that has not voted to accept secret ballot voting to do so during the state  
13 of emergency and allows elected officials in those municipalities to remain in office until  
14 an election is called pursuant to Title 30-A, section 2525;
- 15           13. Permits a municipal officer to file with the clerk an order establishing the wording  
16 of any referendum question by the 30th day before a referendum election, notwithstanding  
17 Title 30-A, section 2528, subsections 4 and 5;
- 18           14. Suspends during the state of emergency the requirement under Title 30-A, section  
19 5721-A, subsection 7, paragraph A for a written ballot to exceed or increase the property  
20 tax levy at an open town hall meeting and permits the use of either a show of hands or a  
21 voice vote; and
- 22           15. Applies retroactively to January 15, 2021 and is repealed on January 15, 2022 and,  
23 in view of the emergency cited in the Act, takes effect when approved.