

# MAINE STATE LEGISLATURE

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Date: 3/25/22

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**MAJORITY**

**VETERANS AND LEGAL AFFAIRS**

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**STATE OF MAINE**

**SENATE**

**130TH LEGISLATURE**

**SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 647, L.D. 1830, "An Act To Amend the Election Laws"

Amend the bill by striking out all of section 4 and inserting the following:

**Sec. 4. 21-A MRS §753-B, sub-§5**, as repealed and replaced by PL 2019, c. 371, §35, is repealed and the following enacted in its place:

**5. Alternate method of absentee voting by residents of certain licensed facilities.**  
Residents of certain nursing homes, residential care facilities and assisted living programs may cast absentee ballots under the provisions of this subsection. This subsection applies to a licensed nursing home subject to the provisions of Title 22, chapter 405; a licensed level IV residential care facility subject to the provisions of Title 22, chapter 1664; and a licensed assisted living program with more than 6 beds subject to the provisions of Title 22, chapter 1664. As used in this subsection, "level IV residential care facility" means a residential care facility as defined by Title 22, section 7852, subsection 14 that has a licensed capacity of more than 6 residents.

A. The municipal clerk shall designate one time during the 30-day period prior to an election during which the municipal clerk shall be present in each facility to which this subsection applies in the municipality for the purpose of conducting absentee voting by residents of these facilities. The clerk shall designate which areas in these facilities constitute the voting place, the voting booth and the guardrail enclosure. The clerk shall post a notice in the municipal office that absentee voting will be conducted as prescribed in this subsection. The clerk shall provide a notice to each facility of the date and time when absentee voting will be conducted. The notice must state that the facility is required to notify the contact person or persons, if any, for each resident that absentee voting will be conducted. Each facility shall provide notice, which may be in the form of an e-mail or an electronic newsletter, to the contact person or persons, if any, for each resident of the date and time when absentee voting will be conducted at the facility. Sections 681 and 682 apply to voting in these facilities within the areas designated by the clerk.

**COMMITTEE AMENDMENT**

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B. To protect public health, the Secretary of State may designate procedures for conducting absentee voting for the residents of a facility to which this subsection applies that differ from the procedures described in paragraph A if:

(1) The Department of Health and Human Services declares a health emergency under Title 22, section 802, subsection 2;

(2) The Governor declares an extreme public health emergency under Title 22, section 802, subsection 2-A;

(3) The Department of Health and Human Services determines that a public health threat, as defined in Title 22, section 801, subsection 10, threatens the health, welfare or safety of the municipal clerk or the residents of a facility described in this subsection; or

(4) A facility described in this subsection prohibits the municipal clerk from entering the facility.

Procedures designated under this paragraph remain in effect for the duration of the health emergency, extreme public health emergency or public health threat or for as long as the municipal clerk remains prohibited from entering the facility, as the case may be.

**Sec. 5. 21-A MRSA §901, sub-§4**, as amended by PL 2007, c. 234, §2, is further amended to read:

**4. Ballot question.** The ballot question for an initiative or a people's veto referendum must be drafted by the Secretary of State in accordance with section 906 and rules adopted in accordance with the Maine Administrative Procedure Act. The Secretary of State shall provide the ballot question to the applicant for a people's veto referendum within 10 business days after receipt of a properly completed application. If an initiative is filed with the Secretary of State and certified pursuant to the Constitution of Maine, Article IV, Part Third, Section 18 as having a sufficient number of signatures ~~and is not enacted without change by the Legislature at the session at which it is presented,~~ then the Secretary of State shall propose a ballot question to be submitted for public comment as provided in section 905-A.'

Amend the bill in section 5 in subsection 2 in the 6th line (page 2, line 23 in L.D.) by inserting after the following: "include the" the following: 'summary prepared under section 901, subsection 5 and the'

Amend the bill in section 5 in subsection 2 in the last line (page 2, line 27 in L.D.) by striking out the following: "prepared by the Secretary of State" and inserting the following: 'prepared by the Secretary of State'

Amend the bill by striking out all of section 7 and inserting the following:

**'Sec. 7. 21-A MRSA §905, sub-§2**, as amended by PL 2009, c. 611, §6, is further amended to read:

**2. Superior Court.** Any voter named in the application under section 901, or any person who has validly signed the petitions, if these petitions are determined to be invalid, or any other voter, if these petitions are determined to be valid, may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action must be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80C, except as

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1 modified by this section. In reviewing the decision of the Secretary of State, the court shall  
2 determine whether the description of the subject matter is understandable to a reasonable  
3 voter reading the question for the first time and will not mislead a reasonable voter who  
4 understands the proposed legislation into voting contrary to that voter's wishes. This  
5 Except as provided in subsection 4, this action must be commenced within 10 days of the  
6 date of the decision of the Secretary of State. Upon timely application, anyone may  
7 intervene in this action when the applicant claims an interest relating to the subject matter  
8 of the petitions, unless the applicant's interest is adequately represented by existing parties.  
9 The court shall advance the action on the docket and give it priority over other cases when  
10 the court determines the interests of justice so require. The court shall issue its written  
11 decision containing its findings of fact and stating the reasons for its decision within 40  
12 days of the date of before the 40th day after the decision of the Secretary of State.

13 **Sec. 8. 21-A MRSA §905, sub-§3**, as amended by PL 1987, c. 119, §1, is further  
14 amended to read:

15 **3. Supreme Judicial Court.** Any aggrieved party may appeal the decision of the  
16 Superior Court, on questions of law, by filing a notice of appeal within 3 days of that  
17 decision. The appellant must file the required number of copies of the record with the clerk  
18 within 3 days after filing notice of appeal. After a notice of appeal is filed, the parties have  
19 10 days to file briefs with the clerk of courts. As soon as the record and briefs have been  
20 filed, the court shall immediately consider the case. The standard of review shall must be  
21 the same as for the Superior Court. The Except as provided in subsection 4, the court shall  
22 issue its decision within 30 days of the date of the decision of the Superior Court.

23 **Sec. 9. 21-A MRSA §905, sub-§4** is enacted to read:

24 **4. Expedited proceedings.** If the Secretary of State's written decision on the validity  
25 of a petition under subsection 1 is issued within 120 days of the general or statewide  
26 election in which the people's veto referendum or direct initiative, if finally determined to  
27 be valid, will appear on the ballot, the following modifications to the procedures established  
28 in subsections 2 and 3 apply:

29 A. An appeal under subsection 2 must be commenced within 5 days of the date on  
30 which the Secretary of State's written decision was issued under subsection 1, unless  
31 the Secretary of State fails to provide notice of the 5-day deadline in the written  
32 decision;

33 B. The Superior Court shall conduct the appeal in accordance with subsection 2, except  
34 that the court shall issue its written decision containing its findings of fact and stating  
35 the reasons for its decision no later than 60 days prior to the general or statewide  
36 election in which the people's veto referendum or direct initiative, if finally determined  
37 to be valid, will appear on the ballot. In establishing the timeline for the proceedings  
38 and in issuing its written decision, the Superior Court shall give due regard to the  
39 deadline for completion of a further appeal under paragraph C; and

40 C. If an aggrieved party files an appeal with the Supreme Judicial Court under  
41 subsection 3, the court shall issue its decision no later than 50 days prior to the general  
42 or statewide election in which the people's veto referendum or direct initiative, if finally  
43 determined to be valid, will appear on the ballot.'

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

3 **SUMMARY**

4 This amendment, which is the majority report of the committee, makes the following  
5 changes to the bill.

6 1. It provides that the alternative procedures that the bill authorizes the Secretary of  
7 State to develop for absentee voting in certain nursing homes, residential care facilities and  
8 assisted living programs when necessary to protect public health during a health emergency  
9 declared by the Department of Health and Human Services or an extreme public health  
10 emergency declared by the Governor or when the department determines that there is a  
11 public health threat to the residents in a facility may also apply when the department  
12 determines that there is a public health threat to the municipal clerk or when, even in the  
13 absence of such a declared threat, the facility prohibits the municipal clerk from entering  
14 the facility.

15 2. It clarifies that the fiscal impact statement prepared by the Office of Fiscal and  
16 Program Review and the summary of the proposed law prepared by the Revisor of Statutes  
17 must appear only on the first page of a citizens initiative petition directly below the  
18 statutorily required statement informing voters that they have the right to read the summary  
19 and fiscal impact statement.

20 3. It establishes an expedited process for processing appeals from a Secretary of State  
21 determination of the validity of a people's veto referendum petition or direct initiative  
22 petition that is made within 120 days of the election in which the referendum or initiative  
23 may appear on the ballot.