

MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE
SPECIAL SESSION

HOUSE

NO. 2

House of Representatives, March 21, 1912.

Tabled for printing pending reference to a Committee.

C. C. HARVEY, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWELVE

AN ACT to provide for the use of Uniform Ballot Boxes
and for the Preservation of Ballots cast at elections.

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

Section 1. Ballot boxes used for the reception of official
2 ballots shall be of uniform design; they shall be provided
3 for each polling place by the Secretary of State at the
4 expense of the State, and shall be known as State Ballot
5 Boxes; each box shall be equipped with a suitable lock and
6 key; in the top of each box there shall be an opening
7 through which each ballot shall be put into the box; such
8 opening shall be large enough and not larger than may be
9 necessary to allow a single folded ballot to be easily passed

10 through such opening into the box, and shall be covered
11 with a slide which shall be kept shut except when opened
12 to receive a ballot. Each box shall be large enough to
13 properly receive and hold all ballots which may lawfully be
14 deposited therein at any election.

Sect. 2. State Ballot Boxes shall be used for receiving
2 all official ballots cast at elections. The election officers at
3 each polling-place shall at the opening of the polls and
4 before any ballots are received publicly open the ballot box,
5 and ascertain by personal examination, and publicly show
6 that the same is empty, and shall immediately thereafter
7 lock the box and deliver the key thereof to the town, plan-
8 tation, ward, district or precinct clerk, to be retained by
9 him until the polls are closed. The ballot box shall not,
10 after it has been shown to be empty and has been locked,
11 be removed from public view nor opened nor any ballot
12 removed therefrom until the polls are closed. If it becomes
13 impossible to use the State Ballot Box the voting shall pro-
14 ceed in such manner as the presiding officer shall direct,
15 and in such case the clerk shall record the reason why such
16 ballot box is not used, and shall enclose an attested copy
17 of such record in the package with the ballots cast. Any
18 presiding officer or town, plantation, ward, district or pre-
19 cinct clerk who does not comply with the requirements of
20 this section, or evades or attempts to evade the same and

21 any person who violates any provision of this section, or
22 hinders or attempts to hinder any election officer or any
23 town, plantation, ward, district or precinct clerk in the per-
24 formance of his duties under this section, shall be punished
25 for each offense by a fine of not less than fifty dollars nor
26 more than five hundred dollars, and by imprisonment for
27 not less than three nor more than nine months.

Sect. 3. The presiding officer at each polling-place shall
2 have charge of the State Ballot Box, and shall at the close
3 of each election return the same to the city, town or plan-
4 tation clerk. The clerk of each city, town or plantation
5 shall have the custody of the State Ballot Boxes provided
6 for the town, and shall at the expense of the town provide
7 for their safe keeping and for keeping them in good order
8 and repair, subject to the supervision and control of the
9 Secretary of State. If a State Ballot Box becomes defect-
10 ive or is lost or destroyed, the town clerk shall seasonably
11 make written application to the Secretary of State for an-
12 other ballot box, and the same shall be supplied at the
13 expense of the town.

Any presiding officer or any city, town or plantation clerk
15 who shall neglect to perform any duty imposed by this
16 section shall be punished as provided in section 32 of chap-
17 ter six of the Revised Statutes.

Sect. 4. Section twenty-five of chapter six of the Revised Statutes is hereby amended so as to read as follows:

Sect. 25. No person shall take or remove any ballot from the polling-place before the close of the polls. If any voter spoils a ballot he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The ballots thus returned shall be immediately cancelled, and together with those not distributed to the voters, and with the check lists used, which shall be certified by the ballot clerks, to be such, shall be secured, sealed, and sent to the several city, town and plantation clerks. The ballots shall be sorted and counted in open town or ward meeting in such manner as to afford the electors present ample opportunity to observe the sorting and counting, and the result shall be declared and recorded in open town or ward meeting. When the ballots have been so sorted and counted and the result so declared and recorded all the ballots shall in open meeting be sealed in a package, which said package with the check lists sealed in the same manner as the ballots, shall forthwith be returned to the city, town or plantation clerk. In case two or more kinds of official ballots are used at any election, each kind shall be sealed in a separate package. All ballots and check lists shall be so sealed that the packages and check lists cannot be opened or examined without first breaking the seal; and the sealed

26 packages of ballots cost at any state election or at any
27 election of electors of president and vice-president of the
28 United States shall have an endorsement of substantially the
29 following tenor endorsed thereon or securely affixed there-
30 to: "This package contains the ballots cast at an election
31 for held in the of (or in
32 ward of the city of) on the day
33 of 191 ; said ballots were sorted, counted, the
34 result declared and recorded, and this package sealed in
35 open meeting in accordance with section twenty-five of
36 chapter six of the Revised Statutes." Such endorsement
37 shall be signed by the town, plantation or ward clerk and
38 by a majority of the selectmen of towns and the assessors
39 of plantations, or by the wardens in cities or voting pre-
40 cincts. The ballots and check lists returned to the city clerk
41 after any city election and all other ballots returned to him,
42 which he is not required to forward to the secretary of
43 state according to the provisions of section six of this act,
44 shall be preserved by him as a public record for six months.
45 Any election officer, selectman, warden, election clerk, ballot
46 clerk, town clerk or other officer however designated, who
47 shall neglect to perform any duty imposed by this section,
48 and any person who shall abstract from or in any manner
49 tamper with said packages, or who shall in any manner

50 abstract from or tamper with the unused ballots shall be
51 punished as provided in section two of this act.'

Sect. 5. Section fifty-four of chapter six of the Revised
2 Statutes is hereby amended by substituting the word 'three'
3 for the word "thirty" in the fifth line of said section, and
4 by substituting the words 'twenty-four hours' for the words
5 "fourteen days" in the seventh line of said section; so that
6 said section as amended shall read as follows:

'Sect. 54. The clerk of each town shall cause to be de-
8 livered at the office of the secretary of state, the returns of
9 votes given in his town, for governor, senators, representa-
10 tives to the legislature, representatives to congress, electors
11 of president and vice-president of the United States, and
12 for county officers, within three days next succeeding any
13 meeting for their election, or shall deposit them, post-paid,
14 in some post office, directed to the secretary of state, within
15 twenty-four hours after such meeting, to be transmitted by
16 mail; and shall also forward to such office, as soon as
17 practicable, a statement attested by him of the number of
18 votes for said several officers, given at such election in his
19 town, which shall be opened and filed by the secretary, and
20 kept for public examination.'

Sect. 6. Within twenty-four hours after the close of any
2 election for governor, senators, representatives to the legis-
3 lature, representatives to congress, electors of president and

4 vice-president of the United States, and for county officers,
5 the clerk of each town shall securely pack in a box or boxes
6 all ballots given out by him for use at such election and
7 returned to him under the provisions of section twenty-five
8 of chapter six of the Revised Statutes as amended by sec-
9 tion four of this act, without breaking the seals of the
10 packages of ballots so returned to him, together with an
11 attested copy of his record of the number of ballots sent
12 by him to each polling-place, and shall seal each box in such
13 manner that the same cannot be opened without breaking
14 the seal, and within said twenty-four hours shall deliver
15 said box or boxes so sealed to some express company di-
16 rected to and to be transmitted to the secretary of state,
17 Augusta, Maine, express charges prepaid, and shall take a
18 receipt therefor; or within three days after the close of
19 such election the clerk of each town shall deliver said bal-
20 lots or boxes so sealed to the secretary of state at his office
21 in Augusta. The secretary of state shall preserve for a
22 period of six months all such ballots so received by him
23 as a public record. Any town clerk who neglects to per-
24 form the duties imposed upon him by this section and any
25 person who breaks any seal affixed to any package of bal-
26 lots or to any box containing packages of ballots before the
27 same are delivered at the office of the secretary of state,
28 shall be punished as provided in section two of this act.

Sect. 7. At the expiration of fourteen days after any
2 election specified in the preceding section, the secretary of
3 state shall forthwith send a messenger to every town from
4 which returns of votes have not been received as provided
5 in section fifty-four of chapter six of the Revised Statutes,
6 as amended by section five of this act, or from which the
7 sealed packages of ballots have not been received as pro-
8 vided in the preceding section; and the expense of each
9 messenger shall be audited and paid, and added to the next
10 state tax assessed on the town, as provided in section one
11 hundred twenty-five of chapter six of the Revised Statutes.

Sect. 8. The secretary of state shall permit any candidate
2 or other interested person to inspect the ballots so returned
3 to him, in his presence or in the presence of any clerk of
4 his office designated by him, or in the presence of the dep-
5 uty secretary of state, under such reasonable regulations or
6 restrictions consistent with the right of inspection as will
7 secure every ballot from loss, injury or change in any
8 respect. After each inspection the packages shall be again
9 sealed and the fact and date of inspection noted on the
10 package. Whenever required so to do the secretary of
11 state or the deputy secretary of state shall produce any
12 package of ballots in his custody before the governor and
13 council, the legislature or either branch thereof, or any

14 committee thereof, or before any court or magistrate having
15 jurisdiction of any proceeding relating to said election.

Sect. 9. The secretary of state shall at the expense of the
2 state provide and seasonably send to the several city, town
3 and plantation clerks suitable seals for use as required by
4 the provisions of this act, and printed forms of endorse-
5 ments, and suitable blanks for all certificates, copies of
6 records and returns required to be made to his office, by
7 this act; and shall also prepare and send in the same pack-
8 age with said seals a letter of instructions especially calling
9 the attention of each clerk to the provisions of sections two,
10 three, four and six of this act.

Sect. 10. Section fifty-nine of chapter six of the Revised
2 Statutes is hereby amended by inserting after the word
3 "council" in the thirteenth line thereof the following para-
4 graph:

'Upon written application filed with the secretary of state
6 within twenty days after the returns are opened and tabu-
7 lated, alleging that the return or record of the vote cast in
8 any town does not correctly state the vote as actually cast
9 in such town, and specifying the offices as to which such
10 errors are believed to have occurred, the governor and coun-
11 cil in open meeting shall examine the ballots cast in said
12 town and returned to the secretary of state, and if such
13 return or record is found to be erroneous the return shall

14 be corrected in accordance with the number of ballots found
15 to have been actually cast in said town; but no such exam-
16 ination of the ballots shall be made without reasonable notice
17 to all candidates for the offices specified in the application
18 as to which such errors are alleged to have occurred, stating
19 when and where such examination will be made and afford-
20 ing such candidates a reasonable opportunity to be present,
21 in person or by counsel at such examination and be heard
22 in relation thereto,' so that said section as amended shall
23 read as follows:

'Sect. 59. The governor and council, by the first day of
25 December in each year in which an election is held, shall
26 open and compare the votes so returned, and have the same
27 tabulated, and may receive testimony on oath to prove that
28 the return from any town does not agree with the record
29 of the vote of such town in the number of votes, or the
30 names of the persons voted for, and to prove which of them
31 is correct; and the return, when found erroneous, may be
32 corrected by the record. No such correction can be made
33 without application within twenty days after the returns
34 are opened and tabulated, stating the error alleged, nor with-
35 out reasonable notice thereof given to the person affected
36 by such correction, and during said twenty days any person
37 voted for, may personally, and by or with counsel, examine
38 said returns in presence of the governor and council, or

39 either of them, or any member of the council. Upon writ-
40 ten application filed with the secretary of state within twenty
41 days after the returns are opened and tabulated, alleging
42 that the return or record of the vote cast in any town does
43 not correctly state the vote as actually cast in such town,
44 and specifying the offices as to which such errors are be-
45 lieved to have occurred, the governor and council in open
46 meeting shall examine the ballots cast in said town and
47 returned to the secretary of state, and if such return or
48 record is found to be erroneous the return shall be cor-
49 rected in accordance with the number of ballots found to
50 have been actually cast in said town; but no such examina-
51 tion of the ballots shall be made without reasonable notice
52 to all candidates for the offices specified in the application
53 as to which such errors are alleged to have occurred, stating
54 when and where such examination will be made and afford-
55 ing such candidates a reasonable opportunity to be present
56 in person or by counsel at such examination and be heard
57 in relation thereto. The persons having the highest num-
58 ber of votes, not exceeding the number to be chosen, shall
59 be declared elected; and they shall be notified thereof by
60 the secretary of state, and enter upon the discharge of
61 official duties on the first day of January thereafter. If
62 a number of persons, exceeding the number to be chosen,
63 receive an equal number of votes, no one is elected. To

64 ascertain what persons have received the highest number
65 of votes, the governor and council shall count and declare
66 for any person all votes appearing by said returns to have
67 been intentionally cast for him, although his name upon
68 the return is misspelled or written with only the initial or
69 initials of his Christian name or names; and they may hear
70 testimony upon oath, in relation to such returns, in order
71 to get at the intention of the electors, and shall decide
72 accordingly. This section shall be applied in determining
73 the election of all county officers, and, so far as it relates
74 to the examination and correction of returns, it shall be
75 applied in determining the election of representatives to
76 congress, members of the legislature, and presidential elect-
77 ors. When a return is defective by reason of any infor-
78 mality, an attested copy of the record may be substituted
79 therefor.

Sect. 11. This act shall be applied in determining the
2 results of voting upon any resolve of the legislature sub-
3 mitting a constitutional amendment to the people, and the
4 results of voting upon any measures submitted to the deter-
5 mination of the people under the amendment to the con-
6 stitution of the state adopted September 14, 1908, except
7 questions relating to municipal affairs submitted under sec-
8 tion twenty-one of part three of article four of the con-
9 stitution; provided, however, that the governor and council

10 may without the application mentioned in the preceding
11 section, examine in open meeting the ballots cast on any
12 such resolve or question; and when such examination is
13 made with or without application, in lieu of the notice pre-
14 scribed by the preceding section, a notice thereof and of
15 the time and place fixed therefor shall be given by pub-
16 lishing such notice at least twice in some newspaper, if any,
17 published in the town where the ballots to be examined
18 were cast, and if there is no such newspaper then in a
19 newspaper published in the town in the same county nearest
20 the town where the ballots to be examined were cast; the
21 first publication of such notice shall be at least seven days
22 before the time fixed for such examination.

Sect. 12. Section forty-two of chapter six of the Revised
2 Statutes is hereby amended so as to read as follows:

'Sect. 42. Clerks of towns shall preserve the check-lists
4 used at any election at which the ballots cast are to be
5 returned to the secretary of state under the provisions of
6 this act, for one year without alteration, and shall furnish
7 to any person a certified copy thereof within the twenty
8 days after demand and payment or tender of the legal
9 charges therefor, and shall without charge furnish the gov-
10 ernor and council with a certified copy thereof within twenty
11 days after demand, under the penalty provided in section
12 seventy-eight.'

Sect. 13. Nothing contained in this act shall affect the
2 jurisdiction of the Supreme Judicial Court or any justice
3 thereof to entertain proceedings under section seventy to
4 seventy-four both inclusive of chapter six of the Revised
5 Statutes.

Sect. 14. Any neglect on the part of an officer of a town
2 to comply with the requirements of, or to perform the duties
3 imposed by sections two, three and six of this act, and
4 section twenty-five of chapter six of the Revised Statutes
5 as amended by section four of this act, shall be deemed
6 wilful and unreasonable, within the meaning of section
7 ninety-one of chapter six of the Revised Statutes, unless
8 the contrary is shown.