

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE

1913

Including Acts and Resolves of the Special Session held
in 1912.

Published by the Secretary of State, agreeably to Resolves of
June 28, 1820, February 18, 1840, and March 16, 1842.

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1913

**The following law
(P.L. 1912, ch. 1)
survived a people's veto,
September 9, 1912.**

Question:

"Those in favor of providing for the use of uniform Ballot Boxes and for the preservation of ballots cast at elections, as set forth in this act, will place a X in the square marked 'Yes.'"

Yes: 72,816

No: 33,884

PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-fifth Legislature
(SPECIAL SESSION)

1912

Chapter 1.

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 ballots shall be of uniform design; they shall be provided for each polling place by the Secretary of State at the expense of the State, and shall be known as State Ballot Boxes; each box shall be equipped with a suitable lock and key; in the top of each box there shall be an opening through which each ballot shall be put into the box; such opening shall be large enough

State ballot boxes to be of uniform design and furnished by the secretary of state.

CHAP. 1

and not larger than may be necessary to allow a single folded ballot to be easily passed through such opening into the box, and shall be covered with a slide which shall be kept shut except when opened to receive a ballot. Each box shall be large enough to properly receive and hold all ballots which may lawfully be deposited therein at any election.

State ballot boxes shall be used for receiving all official ballots.

—ballot boxes shall be exposed to public view and shall not be opened nor ballots removed until polls are closed.

—proceedings when impossible to use state ballot boxes.

—penalty for not complying with the provisions of this section.

Presiding officer shall have charge of ballot box.

—custody of ballot boxes.

In case of defective or lost ballot boxes.

Section 2. State Ballot Boxes shall be used for receiving all official ballots cast at elections. The election officers at each polling-place shall at the opening of the polls and before any ballots are received publicly open the ballot box, and ascertain by personal examination, and publicly show that the same is empty, and shall immediately thereafter lock the box and deliver the key thereof to the town, plantation, ward, district or precinct clerk, to be retained by him until the polls are closed. The ballot box shall not, after it has been shown to be empty and has been locked, be removed from public view nor opened nor any ballot removed therefrom until the polls are closed. If it becomes impossible to use the State Ballot Box the voting shall proceed in such manner as the presiding officer shall direct, and in such case the clerk shall record the reason why such ballot box is not used, and shall enclose an attested copy of such record in the package with the ballots cast. Any presiding officer or town, plantation, ward, district or precinct clerk who does not comply with the requirements of this section, or evades or attempts to evade the same and any person who violates any provision of this section, or hinders or attempts to hinder any election officer or any town, plantation, ward, district or precinct clerk in the performance of his duties under this section, shall be punished for each offense by a fine of not less than fifty dollars nor more than five hundred dollars, and by imprisonment for not less than three nor more than nine months.

Section 3. The presiding officer at each polling-place shall have charge of the State Ballot Box, and shall at the close of each election return the same to the city, town or plantation clerk. The clerk of each city, town or plantation shall have the custody of the State Ballot Boxes provided for the town, and shall at the expense of the town provide for their safe keeping and for keeping them in good order and repair, subject to the supervision and control of the Secretary of State.

If a State Ballot Box becomes defective or is lost or destroyed, the town clerk shall seasonably make written application to the Secretary of State for another ballot box, and the same shall be supplied at the expense of the town.

Any presiding officer or any city, town or plantation clerk who shall neglect to perform any duty imposed by this section shall be punished as provided in section thirty-two of chapter six of the Revised Statutes.

CHAP. 1

Penalty for neglect to perform duty.

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

Section 25, chapter 6, R. S., amended.

'Section 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.

If voter spoils ballot he may obtain others, not exceeding three.

—canceled and unused ballots shall be preserved.

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 packages of ballots cast at any state election or at any election of electors of president and vice-president of the United States shall have an endorsement of substantially the following tenor endorsed thereon or securely affixed thereon: 'This package contains the ballots cast at an election for

—sorting and counting ballots in open town meeting.

—two or more kinds of official ballots.

—all ballots and check lists shall be sealed in packages and endorsed.

—endorsement.

held in the of (or in ward of the city of) on the day of 191 ; said ballots were sorted, counted, the result declared and recorded, and this package sealed in open meeting in accordance with section twenty-five of chapter six of the Revised Statutes.' Such endorsement shall be signed by the town, plantation or ward clerk and by a majority of the selectmen of towns and the assessors of plantations, or by the wardens in cities or voting precincts. The ballots and check lists returned to the city clerk after any city election and all other ballots returned to him, which he is not required to forward to the secretary of state according to the provisions of

—endorsement shall be signed by town, plantation or ward clerk, and by majority of selectmen, assessors of plantation, and by wardens of cities.

CHAP. 1

section six of this act, shall be preserved by him as a public record for six months. Any election officer, selectman, warden, election clerk, ballot clerk, town clerk or other officer however designated, who shall neglect to perform any duty imposed by this section, and any person who shall abstract from or in any manner tamper with said packages, or who shall in any manner abstract from or tamper with the unused ballots shall be punished as provided in section two of this act.

Section 54,
chapter 6,
R. S.,
amended.

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

Clerk to
transmit
returns of
votes to
secretary
of state.

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

Clerk to
transmit all
ballots to
secretary
of state.

Section 6. Within twenty-four hours after the close of any election for governor, senators, representatives to the legislature, representatives to congress, electors of president and vice-president of the United States, and for county officers, the clerk of each town shall securely pack in a box or boxes all ballots given out by him for use at such election and returned to him under the provisions of section twenty-five of chapter six of the Revised Statutes as amended by section four of this act, without breaking the seal of the packages of ballots so returned to him, together with an attested copy of his record of the number of ballots sent by him to each polling place, and shall seal each box in such manner that the same cannot be opened without breaking the seal, and within said twenty-four hours shall deliver said box or boxes so sealed to some express company directed to and to be transmitted to the secretary of state, Augusta, Maine, express charges prepaid, and shall take a receipt therefor; or within three days after the close of such

election the clerk of each town shall deliver said ballots or boxes so sealed to the secretary of state at his office in Augusta. The secretary of state shall preserve for a period of six months all such ballots so received by him as a public record. Any town clerk who neglects to perform the duties imposed upon him by this section and any person who breaks any seal affixed to any package of ballots or to any box containing packages of ballots before the same are delivered at the office of the secretary of state, shall be punished as provided in section two of this act.

—secretary of state shall preserve ballots for six months.

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

Secretary of state shall send messenger for returns of ballots.

—expense of messenger, how paid.

Section 8. The secretary of state shall permit any candidate or other interested person to inspect the ballots so returned to him, in his presence or in the presence of any clerk of his office designated by him, or in the presence of the deputy secretary of state, under such reasonable regulations or restrictions consistent with the right of inspection as will secure every ballot from loss, injury or change in any respect. After each inspection the packages shall be again sealed and the fact and date of inspection noted on the package. Whenever required so to do the secretary of state or the deputy secretary of state shall produce any package of ballots in his custody before the governor and council, the legislature or either branch thereof, or any committee thereof or before any court or magistrate having jurisdiction of any proceeding relating to said election.

Secretary of state shall permit interested persons to inspect ballots.

Section 9. The secretary of state shall at the expense of the state provide and seasonably send to the several city, town and plantation clerks suitable seals for use as required by the provisions of this act, and printed forms of endorsements, and suitable blanks for all certificates, copies of records and returns required to be made to his office, by this act; and shall also prepare and send in the same package with said seals a letter of instructions especially calling the attention of each clerk to the provisions of sections two, three, four and six of this act.

Secretary of state shall provide suitable seals.

—Printed forms of endorsements, blanks, returns, etc.

—letter of instructions.

CHAP. 1
Section 59,
chapter 6,
R. S.,
amended.

Proceedings
for correct-
ing returns
by the
governor
and council.

Section 10. Section fifty-nine of chapter six of the Revised Statutes is hereby amended by inserting after the word "council" in the thirteenth line thereof the following paragraph:

'Upon written application filed with the secretary of state within twenty days after the returns are opened and tabulated, alleging that the return or record of the vote cast in any town does not correctly state the vote as actually cast in such town, and specifying the offices as to which such errors are believed to have occurred, the governor and council in open meeting shall examine the ballots cast in said town and returned to the secretary of state, and if such return or record is found to be erroneous the return shall be corrected in accordance with the number of ballots found to have been actually cast in said town; but no such examination of the ballots shall be made without reasonable notice to all candidates for the offices specified in the application as to which such errors are alleged to have occurred, stating when and where such examination will be made and affording such candidates a reasonable opportunity to be present, in person or by counsel at such examination and be heard in relation thereto,' so that said section as amended shall read as follows:

'Section 59. The governor and council, by the first day of December in each year in which an election is held, shall open and compare the votes so returned, and have the same tabulated, and may receive testimony on oath to prove that the return from any town does not agree with the record of the vote of such town in the number of votes, or the names of the persons voted for, and to prove which of them is correct; and the return, when found erroneous, may be corrected by the record. No such correction can be made without application within twenty days after the returns are opened and tabulated, stating the error alleged, nor without reasonable notice thereof given to the person affected by such correction, and during said twenty days any person voted for, may personally, and by or with counsel, examine said returns in presence of the governor and council, or either of them, or any member of the council. Upon written application filed with the secretary of state within twenty days after the returns are opened and tabulated, alleging that the return or record of the vote cast in any town does not correctly state the vote as actually cast in such town, and specifying the offices as to which such errors are believed to have occurred, the governor and council in open meeting shall examine the ballots cast in said town, and returned to the secretary of state, and if such return or record is found to be erro-

Mode of
determining
who are
elected.

—proceed-
ings for
correcting
returns by
the governor
and council.

}

neous the return shall be corrected in accordance with the number of ballots found to have been actually cast in said town; but no such examination of the ballots shall be made without reasonable notice to all candidates for the offices specified in the application as to which such errors are alleged to have occurred, stating when and where such examination will be made and affording such candidates a reasonable opportunity to be present in person or by counsel at such examination and be heard in relation thereto. The persons having the highest number of votes, not exceeding the number to be chosen, shall be declared elected; and they shall be notified thereof by the secretary of state, and enter upon the discharge of official duties on the first day of January thereafter. If a number of persons, exceeding the number to be chosen, receive an equal number of votes, no one is elected.

—how to be notified of their election.

—when they shall enter upon official duties.

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

—highest number of votes, how ascertained.

—governor and council may hear testimony.

—to the election of what officers applicable.

—in cases of defective returns.

Section 11. This act shall be applied in determining the results of voting upon any resolve of the legislature submitting a constitutional amendment to the people, and the results of voting upon any measures submitted to the determination of the people under the amendment to the constitution of the state adopted September fourteen, nineteen hundred and eight, except questions relating to municipal affairs submitted under section twenty-one of part three of article four of the constitution; provided, however, that the governor and council may without the application mentioned in the preceding section, examine in open meeting the ballots cast on any such resolve or measure; and when such examination is made with or without application, in lieu of the notice prescribed by the preceding section, a notice thereof and of the time and place fixed therefor shall

Application of this act in determining certain questions.

—exception.

—proviso.

CHAP. 2 be given by publishing such notice at least twice in some newspaper, if any, published in the town where the ballots to be examined were cast, and if there is no such newspaper then in a newspaper published in the town in the same county nearest the town where the ballots to be examined were cast; the first publication of such notice shall be at least seven days before the time fixed for such examination.

Section 42, chapter 6, R. S., amended.

Clerks shall preserve check-lists, and furnish certified copies thereof.

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

‘Section 42. Clerks of towns shall preserve the check-lists used at any election at which the ballots cast are to be returned to the secretary of state under the provisions of this act, for one year without alteration, and shall furnish to any person a certified copy thereof within the twenty days after demand and payment or tender of the legal charges therefor, and shall without charge furnish the governor and council with a certified copy thereof within twenty days after demand, under the penalty provided in section seventy-eight.’

Jurisdiction of S. J. Court not affected.

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

Neglect of town officer.

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

Approved March 23, 1912.

Chapter 2.

An Act to Apportion Representatives to Congress.

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

Congressional apportionment.

Section 1. The counties of York and Cumberland shall compose the first district and be entitled to one representative. The counties of Androscoggin, Oxford, Franklin, Sagadahoc, Knox and Lincoln shall compose the second district and be entitled to one representative. The counties of Kennebec, Somerset, Waldo, Hancock and Washington shall compose the third district and be entitled to one representative. The counties of