

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

Under any contract subject to this section, the contractor may, from time to time, withdraw the whole or any portion of the amount retained for payments to the contractor pursuant to the terms of the contract, upon depositing with the Treasurer of State: ~~A~~ a negotiable certification of deposit, United States treasury bonds, United States treasury notes, United States treasury certificates of indebtedness, United States treasury bills, ~~or~~ bonds or notes of the State of ~~Maine~~ or bonds of any political subdivision of the State of ~~Maine~~. No amount ~~shall~~ may be withdrawn in excess of the market value of the securities at the time of deposit or of the par value of such securities, whichever is lower.

The value of the amount retained and of the securities deposited pursuant to this section shall not be reduced to an amount less than the amount of any pending claim against the contractor filed by a subcontractor pursuant to subsection 2.

Except as otherwise provided, the Treasurer of State shall collect all interest or income when due on the obligations so deposited and shall pay the same, when and as collected, to the contractor who deposited the obligations. If the deposit is in the form of coupon bonds, the Treasurer of State shall deliver each coupon as it matures to the contractor. The Treasurer of ~~state~~ State shall have the power to enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of any securities deposited with ~~him~~ the Treasurer of State pursuant to this section. Such services shall consist of the safekeeping of the securities and of all services required to effectuate the purposes of this section.

Any amount deducted by the department pursuant to the terms of the contract, from the retained payments due the contractor, shall be deducted first from that portion of the retained payments for which no security has been substituted, then from the proceeds of any deposited security. In the latter case, the contractor shall be entitled to receive interest, coupons or income only from those securities which remain after such amount has been deducted.

Any assignment of retained payments made by the contractor shall be honored by the Treasurer of State as part of the procedure to accomplish the substitution of securities under this section, provided that such assignment shall not be made without prior notification to the contracting agency of the State and the Treasurer of State. Such assignment shall not impair the equitable rights of the contractor's surety in the retained payments or in the securities substituted therefor in the event of the contractor's default in the performance of the contract or in the payment of labor and material bills or other obligations covered by the surety's bond.

2. Settlement of claims by subcontractor. In any contract subject to this section, any subcontractor employed pursuant to that contract may file a claim with the department. The claim shall be only for final payment for goods and services received by the contractor and provided by the subcontractor employed pursuant to the contract and may be filed any time within 90 days after delivery of final goods and services. If the contractor fails or refuses to pay the

claim, the subcontractor may submit the claim to arbitration within an additional 60 days after filing the claim with the department. The subcontractor shall notify the department of the submission of the claim to arbitration. Failure to file a claim with the department or failure to submit it to arbitration as provided under this subsection shall constitute a waiver of the claim with respect to the department and shall further constitute a release of any liability against the department by the subcontractor for retained funds being returned to the contractor. ~~The department shall submit the dispute to arbitration and both~~ Both the contractor and subcontractor shall be bound by the decision of the arbitrator. The department shall pay any amount awarded by the arbitrator, including any costs of arbitration, from money due and securities deposited pursuant to subsection 1, up to the full value of the money and securities. In addition, the contractor shall pay to the subcontractor any interest or other income which was earned and received by the contractor on the money or securities awarded by the arbitrator from the date of receipt of final goods and services to the date of payment of the award by the contractor.

The membership of the American Arbitration Association shall be used as arbitrators and the procedures used for arbitration shall be in conformity with the Construction Industry Arbitration Rules as administered by the American Arbitration Association.

See title page for effective date.

CHAPTER 166

H.P. 401 - L.D. 545

An Act to Clarify Election Law Procedures

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

Sec. 1. 21-A MRSA §§6 and 7 are enacted to read:

§6. Date falling on holiday

When the date on which an act must be performed or an event must take place falls on a Saturday, Sunday or legal holiday, the act shall be performed or the event shall take place on the next following business day.

§7. Use of words

When used in this Title, the words "shall" and "must" are used in a mandatory sense to impose an obligation to act or refrain from acting in the manner specified by the context. The word "may," when used in this Title, is used in a permissive sense to grant authority or permission, but not to create duty, to act in the manner specified by the context. When used in this Title, the term "may not" indicates a lack of authority or permission to act or refrain from acting in the manner specified by the context, whereas the term "shall not" indicates a duty to refrain from action or omission in the manner specified by the context.

Sec. 2. 21-A MRSA §337, sub-§2, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. Only a registered voter residing in the electoral division of the candidate concerned may file a challenge. The challenge must be in writing and must set forth the reasons for the challenge. The challenge must be filed in the office of the Secretary of State before 5 p.m. on the 5th business day after the final date for filing petitions under section 335, subsection 8.

Sec. 3. 21-A MRSA §355, sub-§3, as enacted by PL 1987, c. 214, §2, is amended to read:

3. **Residence declared.** The consent must contain a declaration of the candidate's place of residence ~~which the~~ and the fact that the candidate has not been enrolled in a party for 3 months prior to the filing date for the nomination petition. The candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If any part of the declaration is found to be false by the Secretary of State ~~prior to the date of~~ before the general election, the consent and the nomination petition are void, pursuant to challenge procedures in section 356.

A. Candidates for the office of county charter commission need not verify by oath or affirmation that they are not enrolled in a party.

Sec. 4. 21-A MRSA §356, sub-§2, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. Only a registered voter residing in the electoral division of the candidate concerned may file a challenge. The challenge must be in writing and must set forth the reasons for the challenge. The challenge must be filed in the office of the Secretary of State by 5 p.m. on the 5th business day after the final date for filing petitions under section 354, subsection 8.

Sec. 5. 21-A MRSA §752, sub-§1, ¶A, as amended by PL 1987, c. 188, §14, is further amended to read:

A. At least 90 days before the election to which they pertain, the Secretary of State shall furnish each municipality with a reasonable number of blank absentee ballots for use ~~of~~ by members of the Armed Forces and citizens outside the United States who have met the qualifications in section 751. These ballots shall be similar to regular ballots, except that no candidate names may be printed. The Secretary of State shall prepare a ballot listing all offices to be selected with a space after each office to write in the voter's preference. The following instructions must be printed in bold type at the top of the ballot: **YOU MAY VOTE FOR A PERSON BY PLACING WRITING IN THAT PERSON'S NAME AND MUNICIPALITY OF RESIDENCE IN THE BLANK SPACE UNDER THE PROPER OFFICE.**

Sec. 6. 21-A MRSA §803, as enacted by PL 1985, c. 161, §6, is amended to read:

§803. Duties of Governor

As soon as possible after the presidential electors are chosen, the Governor shall send a certificate of the determination of the electors to the ~~administrator of general services~~ Archivist of the United States under the state seal. The certificate shall state the names of the electors and the number of votes which each received. The Governor shall deliver 6 ~~original duplicates of the same certificate~~ certificates under the state seal to the electors on or before the first Monday after the 2nd Wednesday of December, following their election.

Sec. 7. 21-A MRSA §805, sub-§4, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 8. 21-A MRSA §805, sub-§4-A is enacted to read:

4-A. Certificates sent immediately. The presidential electors shall send immediately by registered mail one certificate to the President of the Senate of the United States and 2 certificates to the Archivist of the United States in Washington, D.C. The presidential electors shall deliver 2 certificates to the Secretary of State, who shall hold one of them subject to the order of the President of the Senate of the United States and shall retain the other for public inspection for one year. The presidential electors shall deliver one certificate to the Chief Judge of the United States District Court for the District of Maine.

Sec. 9. 21-A MRSA §805, sub-§5, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 10. 21-A MRSA §1017, sub-§6, as enacted by PL 1985, c. 161, §6, is amended to read:

6. **Forms.** Reports required by this section must be on forms prescribed ~~by the commission, prepared by the Secretary of State and sent by the commission, prepared and sent by the commission~~ to the candidate at least 7 days before the filing date for the report. Persons filing reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse committees, candidates and other persons who must file reports from otherwise obtaining the forms.

See title page for effective date.

CHAPTER 167

H.P. 316 - L.D. 432

An Act to Improve the Accountability and Allocation of Funds for Community-purchased Services