

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 466

H.P. 749 - L.D. 1053

An Act to Clarify Certain Election Laws

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

Sec. 1. 21-A MRSA §101, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Qualifications. The registrar must be a citizen of the United States, a resident of the ~~municipality~~ State and at least 18 years of age. ~~He~~ The registrar may not hold or be a candidate for any state or county office, or hold membership on any party committee.

Sec. 2. 21-A MRSA §103, sub-§§1 and 5, as enacted by PL 1985, c. 161, §6, are amended to read:

1. Population of 5,000 or over. In a city or town ~~which that~~ has a population of 5,000 or over, a board of registration consisting of 3 members ~~shall must~~ be appointed as follows: One member nominated by the municipal committee of each of the major political parties, who must be enrolled in the party of the municipal committee that nominates ~~him~~ the member and appointed by the municipal officers, and the 3rd member nominated by the clerk of the municipality and appointed by the municipal officers. The 2 members of the board nominated by the municipal committees of the major political parties may be members of the political committee nominating them and may be members of a state or county delegation to a political convention. When a municipal committee nominates a member to the board of registration, it shall also nominate an alternate board member, who shall serve if the member nominated by the municipal committee is or becomes unable to serve.

5. Vacancy. When there is a vacancy on the board, the alternate board member nominated by the municipal committee of the political party of the former incumbent shall serve. If an alternate is not available, the municipal officers shall appoint a qualified person nominated by the municipal committee of the party of the former incumbent to fill the vacancy. If the vacancy is in the office of ~~chairman~~ the chair of the board, the municipal officers shall appoint a qualified person nominated by the clerk of the municipality to fill the vacancy. Vacancies ~~shall must~~ be filled for the remainder of the term of office.

Sec. 3. 21-A MRSA §103, sub-§8 is enacted to read:

8. Removal from office. A member of the board may be removed from office at any time during the member's term if the appropriate nominating authority nominates a replacement. The replacement nominee

shall serve out the remainder of the replaced member's term.

Sec. 4. 21-A MRSA §122, sub-§9 is enacted to read:

9. Regulation of registration monitors. Anyone who wishes to monitor the names and addresses of persons who are registering at the registrar's office or the clerk's office shall inform the registrar or clerk of their intent. The registrar or clerk may designate a place where a person monitoring registrations may stand. The registrar or clerk shall then announce the name and address of individuals registering to vote in a loud and clear voice. A person monitoring registrations shall direct any questions the person has to the registrar or clerk. These questions must be limited to information pertinent to the qualifications of an individual to register. A person monitoring registrations may not ask questions of individuals waiting to register concerning their eligibility to vote. A registrar or clerk may require a person monitoring registrations who violates the provisions of this subsection to leave the building.

Sec. 5. 21-A MRSA §127, as enacted by PL 1985, c. 161, §6, is amended to read:

§127. Persons present at time for closing registrations

The registrar shall allow all persons to register who are present at ~~his the~~ registrar's office at closing time ~~on the final day for registration before an election. Any person who arrives at his office after closing time may not register.~~

Sec. 6. 21-A MRSA §152, sub-§1, as amended by PL 1989, c. 694, §2, is further amended to read:

1. Application. In addition to the procedure provided by section 122, a person may register to vote or enroll in a political party, or both, by completing an application ~~which shall be that is~~ designed by the Secretary of State and ~~contain~~ contains the following information:

- A. First name, middle name or initial and last name, or first name or initial, middle name and last name;
- B. Residence address, including street, street number, apartment number, town, ~~county~~ and zip code;
- C. Mailing address;
- D. Date of birth;
- E. Sex;
- F. Most recent prior residence where registered to vote, including the name under which registered, if changed, legal address and mailing address;

G. Whether a citizen by birth or naturalization; ~~if by naturalization, the date, place and court of naturalization;~~

H. Notification that failure to complete the entire application may prevent registration;

I. Sworn statement that all information is correct;

J. Date of registration;

K. Signature of applicant; and

L. Choice of political party if the applicant desires to enroll in a political party or an indication that the applicant chose not to enroll in a party.

Sec. 7. 21-A MRSA §154, sub-§1, ¶B, as amended by PL 1985, c. 383, §4, is further amended to read:

B. Residence address, including street, street number, apartment number, town, ~~county~~ and zip code;

Sec. 8. 21-A MRSA §154, sub-§1, ¶G, as enacted by PL 1985, c. 161, §6, is amended to read:

G. Whether a citizen by birth or naturalization; ~~if by naturalization, the date, place and court of naturalization;~~

Sec. 9. 21-A MRSA §157, first ¶, as amended by PL 1985, c. 819, Pt. A, §§20 and 21, is further amended to read:

~~In a city or town which has a board of registration, the~~ The clerk shall accept applications for registration and enrollment when the registrar of voters is unavailable or the board is not in session, except during the closed period prior to election day under section 122.

Sec. 10. 21-A MRSA §161, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. List current. The registrar shall keep a list current at all times by adding the names of new voters and by removing the names of those who have died, moved from the municipality with an apparent intention of abandoning their residence in the municipality or become disqualified to vote. When the registrar employs the facilities of the United States Postal Service to determine which voters have moved from the municipality and when the United States Postal Service reports to the registrar that a voter has moved from the address shown on the voting list without having notified the United States Postal Service of a forwarding address, the registrar shall remove the name of the voter from the voting list and is not required to send, or to attempt to send, a notice to the voter in accordance with section 162. The registrar may not remove the name of a registered voter

from the voter list solely for not voting in previous elections.

Sec. 11. 21-A MRSA §171, sub-§1, ¶B, as amended by PL 1985, c. 383, §6, is further amended to read:

B. Residence address, including street, street number, apartment number, town, ~~county~~ and zip code;

Sec. 12. 21-A MRSA §171, sub-§7, ¶G, as amended by PL 1985, c. 614, §13, is further amended to read:

G. Whether a citizen by birth or naturalization; ~~if by naturalization, the date, place and court of naturalization;~~

Sec. 13. 21-A MRSA §303, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Petition. After filing the declaration described in subsection 1, the voter or a group of voters may then circulate petitions. These petitions must be signed in the same manner as primary petitions under section 335, subsections 3 and 4. The circulator of the petition must certify ~~his~~ the belief that the signatures on it are genuine and that the signers are registered ~~and enrolled~~ voters. Each page of the petition must have a caption, in conspicuous type, ~~which~~ that contains the designation of the proposed party followed by the words "Petition to participate in the primary election." The Secretary of State shall prepare forms for these petitions. The petitions must be filed in the office of the Secretary of State before 5 p.m. on the 180th day preceding a primary election and must contain the signatures and legal addresses of voters, equal in number to at least 5% of the total vote cast in the State for Governor at the last preceding gubernatorial election.

Sec. 14. 21-A MRSA §367 is enacted to read:

§367. Candidate withdrawal

A candidate who wishes to withdraw from an elective race shall notify the Secretary of State in writing of the candidate's intent to withdraw and the reason for withdrawal. This notice must be signed by the candidate.

Sec. 15. 21-A MRSA §376, sub-§§1 and 2, as repealed and replaced by PL 1989, c. 341, §3, are amended to read:

1. Federal or gubernatorial office. If a candidate or nominee for a federal or gubernatorial office withdraws less than ~~40~~ 45 days before any election, the Secretary of State is not required to produce new ballots.

2. Certain state offices. The Secretary of State is required to produce new ballots only if a candidate for

an office, other than United States Senator, Representative to Congress or Governor, withdraws in accordance with section 374-A, subsection 1, paragraph A, B or C, a replacement candidate is nominated and a notification is filed with the Secretary of State by the appropriate committee of the political party making the nomination no later than 45 days before the election.

Sec. 16. 21-A MRSA §402, sub-§2, as enacted by PL 1987, c. 797, §2, is amended to read:

2. Identification of contestants. Identification of at least 2 ~~of the candidates that have declared as~~ contestants for nomination as the presidential candidate of the party; and

Sec. 17. 21-A MRSA §407, as enacted by PL 1987, c. 797, §2, is amended to read:

§407. Cost

Whenever a municipality complies with the provisions of this ~~chapter~~ subchapter, the State shall bear the cost incurred.

Sec. 18. 21-A MRSA §503, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Appointment. The municipal officers of each municipality must appoint election clerks no later than May 1st of each general election year. They shall appoint persons nominated by the municipal committees of the major parties to serve as election clerks for each voting place and post a public listing of those nominated and appointed. They must designate an equal number of election clerks from each major party. At the request of the municipal committee of any minor party represented on the last general election ballot, the municipal officers shall appoint one election clerk nominated by that committee for each voting place.

Sec. 19. 21-A MRSA §673, sub-§1, as amended by PL 1985, c. 357, §2 and 19, is further amended to read:

1. How made. The challenge must be made to the warden. The challenger must state ~~his~~ the challenger's name, the name of the voter challenged and the reason for the challenge.

A. Only the following reasons for challenges may be accepted by the warden. The challenged person:

- (1) Is not a registered voter;
- (2) Is not enrolled in the proper party, if voting in a primary election;
- (3) Is not qualified to be a registered voter because ~~he~~ the challenged person is not:

(a) At least 18 years of age;

(b) A citizen of the United States; or

(c) A resident of the municipality or appropriate electoral district within the municipality;

(4) Did not properly apply for an absentee ballot;

(5) Is not a qualified absentee voter as prescribed by section 751;

(6) Did not properly complete the affidavit on the absentee return envelope;

(7) Did not cast the ballot or complete the affidavit before the appropriate witness;

(8) Communicated with someone as prohibited by section 754-A, subsection 1, paragraph B or subsection 3, paragraph B or D;

(9) Did not have ~~his~~ the ballot returned to the clerk by the time prescribed;

(10) Voted using the name of another; or

(11) Committed any other specified violation of this Title.

Sec. 20. 21-A MRSA §682, sub-§3, as amended by PL 1985, c. 383, §11, is further amended to read:

3. Advertising prohibited. No person may display any advertising material ~~or~~, operate any advertising medium, including a sound amplification device, or distribute campaign literature, posters, buttons or stickers intended to influence the opinion of any voter, within 250 feet of the entrance to either the voting place or the registrar's office. The term "sound amplification device" includes, but is not limited to, sound trucks, loudspeakers and blowhorns.

A. This subsection does not apply to advertising material on automobiles traveling to and from the voting place. It does not prohibit a person from passing out stickers at the voting place ~~which are~~ to be pasted on the ballot at a primary election. It does not prohibit a person, other than an election official, from wearing a campaign button when the longest dimension of the button does not exceed 3 inches.

B. A person who knowingly engages in activities prohibited by this section is guilty of a Class E crime.

Sec. 21. 21-A MRSA §711, sub-§2, as amended by PL 1985, c. 226, is further amended to read:

2. **City or multi-district town.** In a city, or in a town ~~which that~~ has more than one voting district, the ward clerk shall fill out the election return form provided by the Secretary of State, showing the number of votes cast for each candidate or question. ~~He~~ The ward clerk must sign the return, have it attested by the warden and immediately deliver it to the municipal clerk. The municipal clerk shall tabulate the returns in duplicate on the election return provided by the Secretary of State. The clerk shall sign the return, ~~have it attested by a majority of the municipal officers~~ and immediately send the duplicate copy to the Secretary of State.

Sec. 22. 21-A MRSA §721, as enacted by PL 1985, c. 161, §6, is amended to read:

§721. Reports of registration and enrollment

Within ~~40~~ 20 days after a general election, the registrar shall send a report to the Secretary of State, stating the number of voters in each voting district of the municipality at the close of the polls on election day. Within ~~40~~ 20 days after a primary election, the registrar shall report the total number of voters in each voting district of the municipality and the number of voters enrolled in each political party in each voting district of the municipality at the close of the polls on election day.

Sec. 23. 21-A MRSA §737, sub-§8, as enacted by PL 1985, c. 161, §6, is amended to read:

8. **Appeal to Commission on Governmental Ethics and Election Practices.** If there are enough challenged or disputed ballots to affect the result of an election, a candidate for that office may appeal to the Commission on Governmental Ethics and Election Practices, as provided in Article IV, for a determination of the election. A written notice of ~~his~~ the candidate's intent to appeal as provided in section 742, subsection 1 must be ~~given~~ submitted to the Secretary of State at the close of the recount.

Sec. 24. 21-A MRSA §751, sub-§§7 and 8, as enacted by PL 1987, c. 188, §3, are amended to read:

7. **Resident of certain facilities.** Resident of a licensed nursing home, as defined in Title 22, chapter 405, licensed boarding home, as defined in Title 22, chapter 1665, or certified congregate housing unit, as defined in Title 22, chapter 1457-A, when the clerk is present; or

8. **Citizens outside the United States.** If a citizen residing outside the United States does not have a place of abode or other address in the State, or if ~~his~~ the citizen's intent to return to this State is uncertain, ~~he~~ the citizen may vote by absentee ballot in elections in the State, as long as the following qualifications are met:

A. ~~He~~ The citizen must have been domiciled in the State immediately before ~~his~~ the citizen's departure from the United States;

B. ~~He~~ The citizen must not maintain a domicile, not be registered to vote, and not be voting in any other state or territory or in any territory or possession of the United States;

C. ~~He~~ The citizen must maintain ~~his~~ citizenship in the United States; and

D. ~~He~~ The citizen has registered to vote under section 154; or

Sec. 25. 21-A MRSA §751, sub-§9 is enacted to read:

9. Marginal literacy. Marginal literacy, which relates to the inability of an individual to read, write or compute well enough to perform common tasks.

Sec. 26. 21-A MRSA §752, sub-§1, as amended by PL 1989, c. 166, §5, is further amended to read:

1. **Absentee ballots to be identical.** ~~Except as provided in paragraph A, absentee~~ Absentee ballots ~~shall~~ must be identical to the regular ballots used at an election, ~~except that the words "Absentee Ballot" must be printed conspicuously on at least one side of the folded ballot as provided in paragraph A for members of the Armed Forces or citizens outside the United States.~~

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 by members of the Armed Forces and citizens outside the United States who have met the qualifications in section 751. These ballots ~~shall~~ must 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 WRITING IN THAT PERSON'S NAME AND MUNICIPALITY OF RESIDENCE IN THE BLANK SPACE UNDER THE PROPER OFFICE.**

B. The Secretary of State shall provide a reasonable number of absentee ballots for township residents who are registered or enrolled in a municipality outside their electoral divisions under section 156. These ballots ~~shall~~ must contain the names of the nominees or candidates for offices in the electoral divisions in which the voters reside.

Sec. 27. 21-A MRSA §752, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. **Content of application.** The application must contain a place for the following: Name of applicant, address, address to which ballot is to be sent, title and year of election at which ballot is to be cast, name of

party in which ~~he~~ the applicant is or desires to be enrolled, date of application and signature of applicant. It must contain a place for the applicant to designate ~~the reason for requesting an absentee ballot~~, the name of a person to whom ~~his~~ the ballot may be delivered and a place for the registrar to certify whether the applicant is registered and the party in which ~~he~~ the applicant is or desires to be enrolled. It must contain a conspicuously printed summary warning of the provisions of Title 17-A, section 703.

Sec. 28. 21-A MRSA §752, sub-§3, as amended by PL 1985, c. 357, §§9 and 19, is further amended to read:

3. Form of envelope. The return envelope in which the absentee ballot is ~~to be~~ placed must include on its outside a conspicuously printed summary warning to the voter of the provisions of section ~~758~~; ~~section~~ 791, subsection 1, ~~paragraphs A and~~ paragraph C; and Title 17-A, section 703. The envelope must also include ~~on its outside a place for a statement of the reason for requesting an absentee ballot and an affidavit to be signed by the voter. The envelope must also include on its outside and~~ a certification to be completed and signed by an aide who assists a voter under section 754-A, subsection 3.

Sec. 29. 21-A MRSA §753, sub-§3, as amended by PL 1987, c. 188, §15, is further amended to read:

3. Application or request received. On receipt of a completed application or a request for an absentee ballot signed by the applicant, the clerk ~~shall~~ may immediately send or deliver an absentee ballot and return envelope to the applicant or to a 3rd person designated in the application or request. The clerk ~~shall~~ may not deliver an absentee ballot to a any 3rd person whose name appears on ~~the an absentee ballot any absentee ballot requested by a resident of a licensed nursing home, as defined in Title 22, chapter 405; licensed boarding home, as defined in Title 22, chapter 1665; or certified egregate housing unit, as defined in Title 22, chapter 1457-A.~~ The clerk ~~shall~~ may not deliver to a 3rd person any absentee ballot requested under subsection 2-A. If a municipal election is to be held on the same date as a statewide election, absentee ballots for the municipal and statewide election may be issued in response to the same application. The clerk shall issue to any 3rd person designated in an application or request only enough absentee ballots to insure that that person will not have more than ~~40~~ 10 absentee ballots for voters in a municipality at any time. ~~Such a~~ A 3rd person must, unless good cause is shown, return an absentee ballot to the clerk's office within the time limits provided in section 755. The clerk shall include a ballot application to be completed by the person who signed only a written request, unless the written request is sufficient under subsection 2. The clerk shall type or write in ink the name and the legal address of the person for whom the absentee ballot is

intended in the upper left hand section of all return envelopes.

A. If the clerk receives a duplicate application from a person from whom the clerk has received a return envelope apparently containing an absentee ballot, the clerk ~~shall~~ may not furnish another absentee ballot for that person.

B. The clerk may issue a 2nd absentee ballot to an applicant, if the applicant requests one, in person or in writing and:

(1) The applicant states good cause, including, but not limited to, loss of, spoiling of or damage to the first absentee ballot; or

(2) An absentee ballot for the applicant which was furnished to a designated 3rd person is not returned to the clerk's office within 5 business days of the date that ballot was sent or delivered to the 3rd person or of the date that 3rd person was notified by the clerk that the ballot was available, or by 10 a.m. on the day before election day, whichever is earlier. If a ballot for an applicant is not returned to the clerk within 5 days of notification, then the clerk shall mail a ballot to that applicant on the 6th day after notification and shall issue no other ballot to the applicant except for good cause as provided in this subsection. This subparagraph ~~shall~~ may not be construed to affect the time for delivery of absentee ballots under section 755.

Sec. 30. 21-A MRSA §758, as amended by PL 1985, c. 357, §§15 and 19, is repealed.

Sec. 31. 21-A MRSA §759, sub-§1, as enacted by PL 1985, c. 161, §6, is repealed and the following is enacted in its place:

1. Warden to review notes of clerk. Unless a request to inspect applications and envelopes is made pursuant to subsection 8, the warden shall review the notes of the clerk on each return envelope as soon as the polls are closed and the regular ballots removed from the ballot box.

Sec. 32. 21-A MRSA §759, sub-§§7 and 8 are enacted to read:

7. Processing before close of polls. If notice is given following the procedure in section 621 that the clerk intends to begin process after 2:00 p.m. on election day, the warden may review the notes of the clerk on each return envelope and deposit the absentee ballots into the ballot box before the close of the polls.

8. Inspection after polls close. If a candidate notifies the warden before 8:00 p.m. that the candidate

wishes to inspect absentee ballot applications and envelopes after the polls close, the warden shall allow the candidate to inspect the applications and envelopes of ballots that have not yet been deposited into the ballot box for 30 minutes after the polls close.

Sec. 33. 21-A MRSA §762, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Signature. The voter's signature; and

Sec. 34. 21-A MRSA §762, sub-§3, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 35. 21-A MRSA §764, as enacted by PL 1985, c. 161, §6, is amended to read:

§764. Applications and envelopes as public records

Absentee ballot applications and absentee ballot return envelopes are public records until the close of voting on election day. After that time, except as provided in section 759, subsection 8, the applications and envelopes are not public records and may be inspected only in accordance with this Title.

Sec. 36. 21-A MRSA §791, sub-§1, ¶A, as amended by PL 1985, c. 357, §§18 and 19, is repealed.

Sec. 37. 21-A MRSA §1014, sub-§4, as enacted by PL 1989, c. 504, §§6 and 31, is amended to read:

4. Enforcement. An expenditure, communication or broadcast made within 10 days before the election to which it relates that results in a violation of this section may result in a civil penalty of no more than \$200. An expenditure, communication or broadcast which made more than 10 days before the election that results in a violation of this section may result in a civil penalty of no more than \$100 if the violation is not corrected within 10 days after the candidate receives notification of the violation from the commission. Enforcement and collection procedures shall must be in accordance with section 1020.

See title page for effective date.

CHAPTER 467

H.P. 986 - L.D. 1431

An Act to Allow Consumer-owned Water Utilities to Replace Malfunctioning Wastewater Disposal Systems under Certain Circumstances

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

Sec. 1. 22 MRSA §2647, as amended by PL 1983, c. 785, §6, is repealed.

Sec. 2. 22 MRSA §2647-A is enacted to read:

§2647-A. Protection of public water source

Any water utility or municipality and the department are authorized to take reasonable steps to protect a public water source from pollution.

1. Right of entry for water utility. Employees or agents of a water utility may enter upon land within 1,000 feet of a public water source or upon land used for commercial or industrial purposes having a facility, structure or system draining into or suspected of flowing or seeping into a public water source and inspect the facility, structure or system, including any building or structure on that land. Entry onto property under this subsection is not a trespass. The power of entry and inspection may be exercised only after the water utility has made a reasonable effort to obtain permission from the landowner for the inspection.

2. Right of entry for department and consumer-owned water utility. Employees or agents of the department or of a consumer-owned water utility as defined in Title 35-A, section 6101 may enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect a wastewater disposal system draining into or suspected of flowing or seeping into a public water source. Entry onto property under this subsection is not a trespass. An employee or agent of the department or consumer-owned utility may seek an administrative inspection warrant pursuant to the Maine Rules of Civil Procedure, Rule 80E to carry out the purposes of this subsection.

3. Remedy. In addition to rights granted to municipal officers under Title 30-A, section 3428, any local or state health inspector or officer may order the owner of any facility, structure or system flowing or seeping into and contaminating a public water source, if the contamination may result in risk to the public health, to remedy the situation. The order must be served in writing and state a time in which the order must be complied with. An order made pursuant to this subsection is not considered an adjudicatory proceeding within the meaning of the Maine Administrative Procedure Act. Any person aggrieved by an order may appeal to the Superior Court within 30 days.

4. Court-ordered remedies. The water utility, municipality or department may petition the Superior Court upon failure of the person named in an order served under subsection 3 to comply with that order. The court, after hearing, may order that appropriate measures be taken.

5. Remedy ordered by water district or consumer-owned utility. If the municipal officers have failed to act on a malfunctioning wastewater disposal unit under Title 30-A, section 3428 and have notified a consumer-owned