

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

B. A mandate payment distribution schedule describes the number of annual payments, the time of each payment and the amount of each payment to be made during the state fiscal year to ensure that the State pays local units of government the required state mandate funds prior to the local units of government having to make expenditures required by a mandate.

C. A mandate payment distribution schedule must be established for each mandate that requires state funding under this section. The agency shall establish a mandate payment distribution schedule for a mandate by consulting with the affected local unit or units of government or with a representative sample of affected local units of government. If necessary, different mandate payment distribution schedules may be established for a single mandate.

D. Following public hearing and in accordance with the Maine Administrative Procedure Act, the State Controller shall adopt rules necessary to implement this subsection. At a minimum, those rules must include a process for establishing mandate payment distribution schedules for distribution of payments under this subsection, including the provision of public notice and an opportunity for comment on the schedules by local units of government and other affected persons.

E. Following public hearing and in accordance with the Maine Administrative Procedure Act, the State Auditor shall adopt rules establishing a process for oversight of local unit of government compliance with mandates and use of state funds provided under this subsection.

F. In accordance with the Maine Administrative Procedure Act, a local unit of government may appeal the number, amount and timing of payments under this section to the agency making payments. Decisions on appeals from the number, amount and timing of payments awarded under the schedule constitute final agency action.

6. Collection of data; report. A state agency making payments to local units of government under this section shall submit a report to the Department of Administrative and Financial Services by September 1st each year. The report must identify specific mandates administered by the agency during the previous fiscal year, describe the payment schedule developed by the agency for each mandate and contain any other information requested by the department. The Department of Administrative and Financial Services shall compile that information and shall issue a report annually not later than January 15th to the Governor and the Legislature summarizing state agency activities under this section.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 16, 1993.

CHAPTER 352

H.P. 1101 - L.D. 1488

An Act to Clarify the Process for a Direct Initiative of Legislation and to Simplify Questions Presented to the Voters at a Referendum

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

Sec. 1. 21-A MRSA §901, as amended by PL 1991, c. 862, §8, is further amended to read:

§901. Petitions

~~On a voter's written application, signed in the office of the Secretary of State on a form designed by the Secretary of State, the Secretary of State shall furnish enough petition forms to enable the voter to invoke the initiative procedure or the referendum procedure provided in the Constitution of Maine, Article IV, Part Third. This application must contain the names and addresses of 5 voters who shall receive any notices in proceedings under this chapter.~~

To initiate proceedings for a people's veto referendum or the direct initiative of legislation, provided in the Constitution of Maine, Article IV, Part Third, Sections 17 and 18, a voter shall submit a written application to the Department of the Secretary of State on a form designed by the Secretary of State. The application must contain the names and addresses of 5 voters who are designated to receive any notices in proceedings under this chapter. For a direct initiative, the application must contain the full text of the proposed law. The voter submitting the application shall sign the application in the presence of the Secretary of State or the Secretary of State's designee.

On receipt, the Secretary of State, or the Secretary of State's designee shall review the application and determine the form of the petition to be submitted to the voters.

1. Limitation on petitions. An application for a people's veto referendum petition must be filed in the office Department of the Secretary of State within 10 working days after adjournment of the legislative session at which the Act in question was passed. A direct initiative of legislation must meet the filing deadlines specified in the Constitution of Maine, Article IV, Part Third, Section 18.

~~2. **Furnished within 10 days.** The Secretary of State shall furnish the forms within 10 days after request and after payment.~~

~~3. **Forms printed by voters.** If a voter wishes to furnish the forms by himself at his own expense, he may do so, but those forms must first be approved by the Secretary of State.~~

3-A. **Review for proper form.** The Secretary of State shall review the proposed law for a direct initiative of legislation within 15 working days after receipt of the application. The Secretary of State may reject the application if the Secretary of State determines that the proposed law:

A. Does not conform to the form prescribed by the Secretary of State; or

B. Does not conform to the essential aspects of the drafting conventions established for the Maine Revised Statutes. The drafting conventions include but are not limited to:

(1) Correct allocation to the statutes and correct integration with existing statutes;

(2) Bill titles and statute section headnotes that objectively reflect the content of the bill, section or sections to which they apply;

(3) Conformity to the statutory numbering system; and

(4) Ensuring that bills enacting statutes do not contain provisions that describe intent or make testimonial statements without creating a legal requirement or duty.

By consent of the applicant the proposed law may be modified to conform with the requirements of this section. The Secretary of State may request assistance from the Revisor of Statutes in reviewing the proposed law.

3-B. **Approved petitions printed by voters.** A voter must print the petitions in the form approved by the Secretary of State.

4. **Ballot question.** The ballot question for an initiative ~~and~~ or a people's veto ~~referenda~~ 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 question must be conspicuously displayed on the face of the petition.

5. **Summary of proposal.** For a direct initiative, the Secretary of State shall request the Revisor of Statutes to recommend a concise summary that objectively describes the content of the proposed law. The Secretary of State shall approve or amend the summary and

the summary must be attached to the end of the proposed law.

6. **Rejection.** If the Secretary of State rejects an application under this section, the Secretary of State shall provide a written statement of the reasons for the decision.

7. **Court review.** A voter named in the application under this section may appeal any decision made by the Secretary of State under this section using the procedures for court review provided for in section 905, subsections 2 and 3.

Sec. 2. 21-A MRSA §905, sub-§1, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

1. **Secretary of State.** The Secretary of State shall review all petitions filed in the Department of the Secretary of State for a people's veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17, or for a direct initiative under the Constitution of Maine, Article IV, Part Third, Section 18.

The Secretary of State shall determine the validity of the petition and issue a written decision stating the reasons for the decision within 30 days after the final date for filing the petitions in the Department of the Secretary of State under the Constitution of Maine, Article IV, Part Third, Section 17 or 18.

Sec. 3. 21-A MRSA §906, sub-§6, as repealed and replaced by PL 1987, c. 119, §2, is repealed and the following enacted in its place:

6. **Wording of ballots for people's veto and direct initiative referenda.** Ballots for a statewide vote on a people's veto referendum or a direct initiative must set out the question or questions to be voted on as set forth in this subsection.

A. The Secretary of State shall advise petitioners that the proper suggested format for an initiative question is a separate question for each issue. In determining whether there is more than one issue, each requiring a separate question, considerations include whether:

(1) A voter would reasonably have different opinions on the different issues;

(2) Having more than one question would help voters to better understand the subject matter; and

(3) The questions are severable and can be enacted or rejected separately without negating the intent of the petitioners.

B. The Secretary of State shall write the question in a simple, clear, concise and direct manner that describes the subject matter of the people's veto or direct initiative.

C. The question must be phrased so that an affirmative vote is in favor of the people's veto or direct initiative.

D. If the Legislature adopts a competing measure, the ballot must clearly designate the competing question and legislation as a competing measure and allow voters to indicate whether they support the direct initiative, support the competing measure or reject both.

E. If there is more than one direct initiative referendum on the same general subject, the Secretary of State shall write the questions in a manner that describes the differences between the initiatives.

Sec. 4. 21-A MRSA §906, sub-§6-A is enacted to read:

6-A. Wording of referendum questions enacted by the Legislature. The proper format for a statutory referendum enacted by the Legislature is a separate question for each issue. In determining whether there is more than one issue, each requiring a separate question, considerations include whether:

A. A voter would reasonably have different opinions on the different issues;

B. Having more than one question would help voters to better understand the subject matter; and

C. The Legislature determines the questions are severable and can be enacted or rejected separately without negating the intent of the Legislature.

Sec. 5. 21-A MRSA §1055, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

~~Whenever any~~ When a political action committee makes an expenditure to finance ~~communications~~ a communication expressly advocating the initiation, promotion or defeat of a question or candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails and other similar types of general public political advertising and through flyers, handbills, bumper stickers and other nonperiodical publications, ~~these communications~~ the communication must clearly and conspicuously state the name and address of the political action committee ~~which that authorized,~~ made or financed the expenditure for the communication and that the communication has been authorized by the political action committee.

Sec. 6. Application. This Act applies to all direct initiatives for legislation and referenda for which

an application is submitted after the effective date of this Act.

See title page for effective date.

CHAPTER 353

H.P. 890 - L.D. 1204

An Act to Amend the Laws Regarding Home Baby-sitting Services and to Provide Rules for Licensing Fees for Day Care Facilities, Nursery Schools and Home Baby-sitting Services

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

Sec. 1. 22 MRSA §8303, as enacted by PL 1975, c. 719, §6, is repealed.

Sec. 2. 22 MRSA §8303-A is enacted to read:

§8303-A. Fee for licenses

By January 1, 1994, the department shall adopt rules to establish reasonable fees for both initial licensure or certification and license or certification renewals for day care facilities, nursery schools and registered home baby-sitting services.

Sec. 3. 22 MRSA §8305, sub-§1, as amended by PL 1993, c. 158, §86 and 7, is further amended to read:

1. Registration. Persons providing home day care on a regular basis for 3 to 12 children under the 16 years of age of 16 unrelated to the provider on a regular basis who do not have a day care facility license shall be required to register with the Department of Human Services as a home baby-sitting service. The department shall issue a certificate of registration to the home baby-sitting service provider, upon receipt of evidence from the registrant that:

A. The provider is at least 18 years of age;

B. The provider has had a standard skin test for tuberculosis, as approved by the Division of Disease Control, Bureau of Health, and that the test is negative or, if the skin test is positive, an appropriate follow-up test, as approved by the Division of Disease Control, is negative. Subsequent testing may be required by the Division of Disease Control;

No ~~A~~ provider may be compelled to undergo a test for tuberculosis who states in writing that it is contrary to his that provider's religious teachings and practice may not be compelled to undergo a test for tuberculosis;