

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	\$39,250	\$38,357
All Other	9,725	9,966

Provides funds for a lobbyist registrar position and related general operating expenses.

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES TOTAL	\$48,975	\$48,323
---	----------	----------

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

Effective July 13, 1993, unless otherwise indicated.

CHAPTER 447

S.P. 268 - L.D. 805

An Act to Clarify Maine Election Laws

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 21-A MRSA §1, sub-§20, as enacted by PL 1985, c. 161, §6, is amended to read:

20. Immediate family. "Immediate family" means a person's spouse, parent, child, sister or brother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian or former guardian.

Sec. 2. 21-A MRSA §158, as amended by PL 1985, c. 614, §12, is further amended to read:

§158. Municipal caucus

The registrar or board of registration shall meet in session on the day of official party caucuses at times designated by the municipal officers for at least one hour preceding the commencement of the party caucus at the location where the party caucus is being held to accept registrations and enrollments and all persons so registered and enrolled may participate in their party caucus.

Sec. 3. 21-A MRSA §363, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

The meeting of a political committee as required by sections 371, 373, ~~374~~ 374-A, 381, 382 and 393 is governed by the following provisions.

Sec. 4. 21-A MRSA §374-A, sub-§1, ¶A, as enacted by PL 1989, c. 341, §2, is amended to read:

A. Withdraws on or before 5 p.m. of the first 2nd Monday in ~~August~~ July preceding the general election;

Sec. 5. 21-A MRSA §374-A, sub-§2, ¶A, as enacted by PL 1989, c. 341, §2, is amended to read:

A. No later than 5 p.m. of the ~~3rd~~ 4th Monday in ~~August~~ July preceding the general election for a candidate who has withdrawn in accordance with subsection 1, paragraph A; or

Sec. 6. 21-A MRSA §384, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

The municipal officers ~~shall~~ may appoint a qualified person to fill a vacancy in the office of any election official.

Sec. 7. 21-A MRSA §406, first ¶, as enacted by PL 1987, c. 797, §2, is amended to read:

If a party chooses to participate in a presidential primary election under this chapter, delegates to national presidential nominating conventions ~~shall~~ must be nominated or selected in accordance with party rules by the state parties meeting in convention under subchapter I, article H, ~~at any time after the presidential primary~~ III.

Sec. 8. 21-A MRSA §502, as enacted by PL 1985, c. 161, §6, is amended to read:

§502. Duties and vacancies — warden and ward clerk

In the event of a vacancy in the office of warden or in the absence or incapacity of the warden, the ward clerk may perform the duties of the warden. A vacancy in the office of ward clerk ~~shall~~ must be filled by an election clerk appointed by the warden. This Except when an election to the position of ward clerk is nonpartisan and no party affiliation is required, an election clerk appointed by the warden must be enrolled in the same political party as the ward clerk and shall serve as ward clerk pro tem.

Sec. 9. 21-A MRSA §504, sub-§3, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. This subsection does not apply to a candidate for warden or ward clerk or ~~his spouse, parents, children, sister or brother~~ the immediate family of the candidate for warden or ward clerk.

Sec. 10. 21-A MRSA §606, sub-§2-A, as amended by PL 1989, c. 602, §1, is repealed.

Sec. 11. 21-A MRSA §606, sub-§2-B, as enacted by PL 1991, c. 347, §2, is repealed.

Sec. 12. 21-A MRSA §606, sub-§3, as amended by PL 1989, c. 602, §2, is further amended to read:

3. Receipt issued; inspection of ballots in primary and general elections. The clerk shall immediately send the Secretary of State a receipt for the ballots the clerk receives. Upon receipt of a package or box containing candidate ballots for a special, primary or general election, the clerk shall open, in the presence of one or more witnesses, open the sealed envelope package or box containing sample the ballots in order to ensure that the ballots do not differ materially from the appropriate specimen ballot described in subsection 2-A affixed to that package or box section 603. The clerk shall immediately notify the Secretary of State if a sample ballot differs materially from the appropriate specimen ballot; described in section 603.

Sec. 13. 21-A MRSA §606, sub-§3-A, as amended by PL 1991, c. 862, §4, is further amended to read:

3-A. Receipt issued; use of test ballots in primary, special and general elections. The clerk shall immediately send the Secretary of State a receipt for the test ballots the clerk receives. The test ballots must be used to test automatic tabulating equipment under section 854. Upon receipt of a package or box containing test ballots for a special, primary or general election, the clerk, in the presence of one or more witnesses, shall open the packet or box containing the sealed test ballots ~~described in subsection 2-B~~. The clerk shall immediately notify the Secretary of State if the number of test ballots in each packet is more or less than 50. The clerk shall keep a record of the number of test ballots throughout the preelection and postelection testing of the tabulating equipment.

~~A. The clerk shall notify the chairs of each political party of the municipality, in writing, of the time and place the test ballots will be tested as required in section 854. If the clerk is unable to notify the chair of the municipal political party, the clerk shall notify the chair of the county or state political party.~~

Sec. 14. 21-A MRSA §629, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Described. Each booth must have within it a pencil or marker and a shelf on which a voter may mark his a ballot conveniently. An instruction poster provided under section 605 must be securely placed above the shelf to assist the voter. Each booth must have ~~a wooden swinging door or a drop curtain arranged so that the top~~

~~of it is not less than 6 feet from the floor and the bottom is at least 2 1/2 feet from the floor, so that back and side panels large enough to screen the voter is screened from the observation of others. The entrance to the booth must be closed while the voter is inside.~~

Sec. 15. 21-A MRSA §§694 and 697, as enacted by PL 1985, c. 161, §6, are amended to read:

§694. Voting list signed

~~As soon as the polls have closed, the~~ The warden and one election clerk from each party shall sign the incoming voting list as soon as the names of all persons who have voted, including persons who have voted by absentee ballot, have been checked off.

§697. Disqualification of ballots

~~Any person engaged at any election as a official,~~ ballot clerk, assistant ballot clerk or any person employed as a counter of ballots must use pens or pencils containing only red ink or red lead.

Sec. 16. 21-A MRSA §721, as amended by PL 1991, c. 466, §22, is further amended to read:

§721. Reports of registration and enrollment

~~Within 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 20 days after a primary or general election, the registrar shall send a report to the Secretary of State stating 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. 17. 21-A MRSA §759, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

The following counting procedure ~~shall~~ must be observed at each voting place, ~~except those voting places that use electronic voting systems. Counting procedures for electronic voting systems are described in section 858-A.~~

Sec. 18. 21-A MRSA §804, as enacted by PL 1985, c. 161, §6, is amended to read:

§804. Meeting in convention

The presidential electors shall convene in the ~~Senate~~ House Chamber in Augusta at 2 p.m. on the first Monday after the 2nd Wednesday of December following their election. If any electors are not present, the electors present shall fill the vacancy by majority vote.

Sec. 19. 21-A MRSA §858, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 20. 21-A MRSA §858-A is enacted to read:

§858-A. Counting procedure for absentee ballots

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.

2. Accepted if correct. If the warden finds that the affidavit is properly completed, that the clerk has verified that the signature on the envelope matches the signature on the application where applicable and that the person is registered and enrolled where necessary, the warden or another election official designated by the warden shall then announce the name of each absentee voter to an election clerk who shall verify on the incoming voting list that the voter has not voted in person and after verification write "AV" next to the absentee voter's name on the incoming voting list. The warden or the warden's designee shall then remove each ballot from its envelope without destroying the envelope.

3. Rejected if incorrect. The warden may not open the envelope and shall write "Rejected" on it, the reason why and the warden's own initials if the warden finds that:

A. The signatures do not appear to have been made by the same person and the discrepancy is not the result of the voter's having obtained assistance under section 753, subsection 4 or section 754-A, subsection 3 in cases when an application is required;

B. The affidavit is not properly completed;

C. The person is not registered or enrolled where necessary;

D. The voter has voted in person; or

E. The ballot was received by the clerk after the deadline.

4. Primary election provisions. At a primary election when the warden removes a ballot from its envelope, the warden shall check its color to be sure it is the ballot of the party in which the voter is enrolled. If it is not, the warden shall immediately replace it in its envelope, reseal the envelope and write "Rejected" on it, the reason why and the warden's own initials.

5. Rejected ballots separate. The warden shall place the return envelopes containing rejected ballots in a separate lot.

6. Ballots counted. As soon as the absentee ballots have been processed, they must be counted in the same manner as regular ballots. Rejected ballots may not be counted.

7. Processing before close of polls. If notice is given following the procedure in section 621 that the clerk intends to begin processing after 2 p.m. on election day, the warden or the warden's designee may review the notes of the clerk on each return envelope and process the ballots.

8. Inspection after polls close. If a candidate notifies the warden before 8 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 opened for 30 minutes after the polls close.

See title page for effective date.

CHAPTER 448

H.P. 117 - L.D. 158

An Act to Change the Scallop Harvesting Season

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

Sec. 1. 12 MRSA §6956 is enacted to read:

§6956. Diver's down flag required

A person licensed to harvest a marine species by hand must display a diver's down flag when using a self-contained underwater breathing apparatus to harvest that species. For the purposes of this section, "diver's down flag" means the International Code Flag "A" as defined in navigation rules adopted by the United States Coast Guard.

See title page for effective date.

CHAPTER 449

H.P. 244 - L.D. 323

An Act to Continue the Franklin County Budget Committee

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitu-