

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 electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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

~~shall~~ must be a lien in favor of the department against all nonexempt property of the responsible parent. This lien ~~shall~~ must be separate and apart from and in addition to any other lien created by, or provided for in, this Title.

Sec. 10. 19 MRSA §504, sub-§1, ¶B, as amended by PL 1977, c. 694, §300, is further amended to read:

B. Twenty-one days have elapsed from the date of receipt of the notice of debt under section 500 or a decision has been received under section ~~498~~ 497-A or 497-B.

See title page for effective date.

CHAPTER 608

H.P. 1110 - L.D. 1506

An Act to Amend the Laws Governing Municipal Elections

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

Sec. 1. 20-A MRSA §1202, sub-§5, ¶A, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. Municipalities voting on the questions of district formation under Title 30-A, sections 2528 to ~~2531~~, 2531-A shall open the polls at 10 a.m. and shall close the polls at 7 p.m.

Sec. 2. 28-A MRSA §121, sub-§1, as amended by PL 1987, c. 147, §1, is further amended to read:

1. Petition. A petition for a local option election must be signed by a number of voters equal to at least 15% of the number of votes cast in that municipality in the last gubernatorial election. All petition signatures must have been signed since the last general election. The petition must be addressed to and received by the municipal officers at least ~~42~~ 45 days before holding any primary, special statewide, general or municipal election or town meeting.

Sec. 3. 28-A MRSA §121, sub-§3, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

3. Conduct of election. Except as provided in this section, the petition process and the voting at elections held in towns and plantations ~~shall~~ must be held and conducted in accordance with Title ~~30~~ 30-A, sections ~~2061~~ 2528, ~~2062~~ 2529 and ~~2065~~ 2532, even if the town or plantation has not accepted the provi-

sions of section ~~2064~~ 2528. The voting at elections held in cities must be held and conducted in accordance with Title 21-A. No referendum questions except those set out in section 123 may be printed on the ballot. The municipal clerk shall make a return of the results, certify the results and send it to the office of the Secretary of State. The Secretary of State shall forward the results to the commission.

Sec. 4. 30-A MRSA §2102, sub-§4, ¶C, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

C. When an original or supplementary petition has been certified insufficient, the committee, within 2 days after receiving the copy of the clerk's certificate, may file a request with the municipal officers for review.

The municipal officers shall inspect the petitions in substantially the same form, manner and time as a recount hearing under section ~~2534~~ 2531-A and shall make due certificate of that inspection. The municipal officers shall file a copy of that certificate with the municipal clerk and mail a copy to the committee. The certificate of the municipal officers is a final determination of the sufficiency of the petitions.

Sec. 5. 30-A MRSA §2354, sub-§5, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

5. Inspection and recount. Upon written application of 10% of the persons, or 100 persons, whichever is less, whose names were checked on the voting lists at any quasi-municipal corporation or district referendum held under this chapter, a ballot inspection or a recount hearing ~~shall~~ must be granted. The time limits, rules and all other matters applying to candidates under sections ~~2530~~ 2530-A and ~~2531~~ 2531-A apply equally to applicants for either the inspection or recount.

Sec. 6. 30-A MRSA §2528, sub-§4, ¶¶C and D, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

C. Completed nomination papers or certificates of political caucus nomination must be filed with the clerk during business hours by the ~~35th~~ 45th day prior to election day. They must be accompanied by the written consent of the person proposed as a candidate agreeing:

- (1) To accept the nomination if nominated;
- (2) Not to withdraw; and

(3) If elected at the municipal election, to qualify as such municipal officer.

When ~~these papers and certificates are filed~~, the clerk shall make ~~these papers and certificates~~ them available to public inspection under proper protective regulations. The clerk shall keep them in the office for 6 months.

D. A nomination paper or a certificate of political caucus nomination ~~which that~~ which complies with this section is valid unless a written objection to it is made to the ~~selectmen~~ municipal officers by the ~~33rd~~ 43rd day prior to election day.

(1) If an objection is made, the clerk shall immediately notify the candidate affected by it.

(2) The ~~selectmen~~ municipal officers shall determine objections arising in the case of nominations. Their decision is final.

Sec. 7. 30-A MRSA §2528, sub-§6, ¶F, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

F. ~~Before distribution, the ballot shall~~ Ballots must be folded uniform in marked creases to measure, when folded, from 4 1/2 to 5 inches wide and from 6 to 13 1/2 inches long size. On the back and outside, when folded, shall be printed ballot must appear "Official Ballot for the Town of," the date of election and a facsimile of the signature of the clerk.

Sec. 8. 30-A MRSA §2528, sub-§6-A is enacted to read:

6-A. Candidate withdrawal; new ballots. The following provisions govern the withdrawal of a candidate from an elective race.

A. A candidate may withdraw from an elective race by notifying the municipal clerk in writing of the candidate's intent to withdraw and the reason for withdrawal at least 45 days before the election. This notice must be signed by the candidate and must be notarized.

B. Within the 45-day period before an election, the municipal clerk may allow a candidate to withdraw from an elective race. A candidate who requests to withdraw within the 45-day period before an election shall notify the municipal clerk in writing of the candidate's intent to withdraw and the reason for withdrawal. This notice must be signed by the candidate and must be notarized.

C. The municipal clerk shall ensure that new ballots are produced, if necessary, to reflect the withdrawal of a candidate from an elective race.

Sec. 9. 30-A MRSA §2529, sub-§2, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

2. Absentee ballot. ~~The absentee ballot requirements of Title 21-A, section 752, apply, provided that the words "Absentee Ballot" are marked conspicuously, instead of printed, on both sides of the folded ballot, if at least one such marking includes an attestation with the written signature of the clerk and is sealed with the municipal seal.~~

Sec. 10. 30-A MRSA §2530, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 11. 30-A MRSA §2530-A is enacted to read:

§2530-A. Candidate's inspection of ballots and incoming voting lists

This section governs all inspections of ballots and incoming voting lists cast in any election for municipal office. Inspection procedures for other offices do not apply to elections for municipal office.

If a candidate other than a declared winner in an election applies in writing to the municipal clerk within 5 days after the result of a city election or an election under section 2528 has been declared, the municipal clerk shall permit the candidate or the candidate's agent, after payment of any deposit required under subsection 2, to inspect the ballots and incoming voting lists under proper protective regulations. The final day of the 5-day period ends at the close of regular business hours in the office of the municipal clerk. The candidate requesting the inspection may request a random or complete inspection of the ballots and incoming voting lists.

Any inspection of ballots and incoming voting lists is subject to the following provisions.

1. Notice. The inspection may be permitted only after written notice by the municipal clerk to:

A. The ward officers who signed the election returns in a city or the moderator in a town; and

B. All candidates for the office specified in the application.

This notice must state the time and place of the inspection and provide the persons listed in paragraphs A and B with a reasonable opportunity to be present and heard in person or to be represented by counsel.

2. When deposit is required. A deposit is not required if the percentage difference shown by the official tabulation is equal to or less than:

A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;

B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or

C. One and one-half percent, if the combined vote for the candidates is 5,001 or over.

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate requesting a ballot inspection and the percentage of the total votes for that office received by the nearest winning candidate.

3. Amount of deposit. The amount of the deposit is determined by the clerk of the municipality and must be 50% of the reasonable estimate of the cost to the municipality performing the inspection.

4. Forfeiture or refund of deposit. All deposits required by this section must be made with the municipal clerk when a ballot inspection is requested. This deposit, made by the candidate requesting the ballot inspection, is forfeited to the municipality if a subsequent recount fails to change the result of the election. If a recount changes the result of the election, the deposit must be returned to the candidate who paid the deposit. After the completion of the recount, if the recount has not changed the result of the election, the municipality shall calculate the actual cost of the procedure. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate. If the actual cost was greater than the deposit, the candidate shall pay the remainder of the actual cost to the municipality. A candidate who is not required to pay a deposit pursuant to subsection 2 may not be charged for the inspection or recount regardless of whether the procedure changes the result of the election.

5. Time of inspection. The inspection must be held within 5 days after the municipal clerk receives the written application requesting an inspection.

6. Packages resealed. After each inspection, the municipal clerk shall reseat the packages of ballots and the incoming voting lists and shall note the fact and date of inspection on them.

7. Candidate defined. As used in this section and section 2531-A, "candidate" means any person who has received at least one vote for the municipal office in question.

8. Calculation of time. The periods established in this section must be calculated according to the Maine Rules of Civil Procedure, Rule 6(a). The final day of any period calculated pursuant to this section ends at the close of regular business hours in the office of the municipal clerk. Actions required to be taken by the end of a day certain that are taken after the close of regular business hours in the office of the municipal clerk on the day certain are not timely.

Sec. 12. 30-A MRSA §2531, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 13. 30-A MRSA §2531-A is enacted to read:

§2531-A. Recount hearing

This section governs all recount hearings in any election for municipal office. Recount procedures for other offices do not apply to elections for municipal office.

A candidate other than a declared winner in an election may apply in writing to the municipal clerk for a recount, pursuant to subsection 4, within 5 days after the results of an election for municipal office are declared or within 5 days after an inspection pursuant to section 2530-A. The final day of the periods provided in this paragraph ends at the close of regular business hours in the office of the municipal clerk.

Any recount pursuant to this section is subject to the following provisions.

1. When deposit is required. A deposit is not required if the candidate requesting the recount has already paid a deposit pursuant to an inspection under section 2530-A for the same office in the same election or if the percentage difference shown by the official tabulation is equal to or less than:

A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;

B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or

C. One and one-half percent, if the combined vote for the candidates is 5,001 or over.

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate requesting a recount and the percentage of the total votes for that office received by the nearest winning candidate.

2. Amount of deposit. The amount of the deposit is determined by the municipal clerk and must

be 50% of the reasonable estimate of the cost to the municipality of performing the recount.

3. Forfeiture or refund of deposit. All deposits required by this section must be made with the municipal clerk when a ballot inspection is requested. This deposit, made by the candidate requesting the ballot inspection, is forfeited to the municipality if a recount fails to change the result of the election. If a recount changes the result of the election, the deposit must be returned to the candidate who paid the deposit. After the completion of the recount, if the recount has not changed the result of the election, the municipality shall calculate the actual cost of the procedure. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate. If the actual cost was greater than the deposit, the candidate shall pay the remainder of the actual cost to the municipality. A candidate who is not required to pay a deposit pursuant to subsection 1 may not be charged for the inspection or recount regardless of whether the procedure changes the result of the election.

4. Written request. The candidate must request the recount by filing a written request with the municipal clerk within the time period provided in this section. The written request must state the office for which that person was a candidate and the reason for the recount based on the candidate's own knowledge or on information and belief.

5. Date of hearing and notice. When the petition has been filed, the municipal clerk shall immediately set a date for the recount hearing, which must be held within 5 days after the petition is filed. The municipal clerk shall notify the municipal officers, the petitioner and the opposing candidates of the hearing date.

6. Procedure at recount. The procedure at the recount hearing is as follows.

A. The municipal clerk shall sort and count the votes under the supervision of the municipal officers who were in office immediately before the election. If the votes were originally counted by automatic tabulating equipment, the municipal clerk may use automatic tabulating equipment to recount the votes.

B. The municipal officers in making corrected returns, in their discretion, may accept any facts that the candidates agreed upon at the ballot inspection.

C. The petitioner or the petitioner's opponents may have all ballots in any way involved in the election and all records required by law to be

kept in connection with absentee ballots displayed for counting or inspection.

D. Witnesses may be called by the candidates and may be sworn by any municipal officer. If authorized by the municipal officers, the municipality shall pay witness fees as provided in Title 16, section 251. A record of the recount proceedings must be kept if a candidate so requests.

E. If, during the recount, the election is conceded to a candidate by a statement signed by the other interested candidates and addressed to the municipal officers, the municipal officers shall stop the recount and issue a certificate of election to the candidate whose election is conceded.

7. Package resealed and marked. After the recount, the municipal clerk shall reseat the packages of ballots and the incoming voting lists and shall note the fact and date of the recount on them.

8. Withdrawal from recount. A losing candidate who requests and receives a recount may withdraw from the recount at any time while the recount shows that candidate to be the loser. If, during the recount, the losing candidate overtakes and passes the winning candidate, the losing candidate may not withdraw and the recount must be completed.

9. Certificate of election. Within 24 hours after the results of a contested election are determined, the municipal officers shall certify the results of their count to the respective candidates involved and issue a certificate of election to the candidate whom they find to have been elected. This certificate of election supersedes any certificate issued previously.

10. Calculation of time. The periods established in this section must be calculated according to the Maine Rules of Civil Procedure, Rule 6(a). The final day of any period calculated pursuant to this section ends at the close of regular business hours in the office of the municipal clerk. Actions required to be taken by the end of a day certain that are taken after the close of regular business hours in the office of the municipal clerk on the day certain are not timely.

Sec. 14. 30-A MRSA §2532, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§2532. Referendum ballot inspection and recount procedure

In the case of a referendum, a ballot inspection or a recount hearing ~~shall~~ must be granted upon

written application of 10% or 100, whichever is less, of the persons whose names were checked on the voting list at any town referendum or ballot question under section 2105 or 2528, or any city referendum. The time limits, rules and all other matters applying to candidates under sections ~~2530~~ 2530-A and ~~2534~~ 2531-A apply equally to applicants for either the inspection or recount.

Sec. 15. 30-A MRSA §2533, first ¶, as amended by PL 1993, c. 473, §42 and affected by §46, is further amended to read:

Within ~~20~~ 30 days after election day, a person who claims to have been elected to any municipal office may proceed against another who claims title to the office by the following procedure.

Sec. 16. 30-A MRSA §2556, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§2556. Ballot inspection; recount; challenge for office

Sections ~~2530~~ 2530-A to 2533 apply in a city and govern ballot inspections, recounts of elections for office, referenda and the procedure for challenging a person who claims title to an office.

Sec. 17. 30-A MRSA §5404, sub-§1, ¶A, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. ~~No revenue~~ Revenue bonds of a town, as distinguished from a city, may not be issued until the general purpose for which the bonds are to be issued and the maximum principal amount of the bonds to be authorized have been approved by ballot by a majority of the votes cast on the question. The total number of votes cast must be equal to at least 20% of the total vote for all candidates for Governor cast in the municipality at the last gubernatorial election. The ballot submitted to the voters of a town to authorize the issuance of revenue bonds ~~shall~~ must state the general purpose for which the proposed bonds are to be issued and the maximum principal amount of the proposed bonds authorized to be issued. The voting at meetings held in towns ~~shall~~ must be held and conducted in accordance with sections 2528 to ~~2534~~ 2531-A, even if the town has not accepted the provisions of section 2528.

See title page for effective date.

CHAPTER 609

S.P. 553 - L.D. 1577

An Act Regarding the Custody of Remains of Deceased Persons

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

Sec. 1. 22 MRSA §2843-A is enacted to read:

§2843-A. Custody of remains of deceased persons

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "At-need funeral arrangements" means funeral arrangements made after death.

B. "Custody and control" means the right to make all decisions, consistent with applicable laws, regarding the handling of a dead body, including, but not limited to, possession, at-need funeral arrangements, final disposition and disinterment.

C. "Estranged" means living in separate residences and having a relationship characterized by hostility or indifference.

D. "Next of kin" means a person having the following relationship to the subject, in the following order of priority:

- (1) The spouse;
- (2) An adult son or daughter;
- (3) A parent;
- (4) An adult brother or sister;
- (5) An adult grandchild;
- (6) An adult niece or nephew who is the child of a brother or sister;
- (7) A maternal grandparent;
- (8) A paternal grandparent;
- (9) An adult aunt or uncle;
- (10) An adult first cousin; or
- (11) Any other adult relative in descending order of blood relationship.