

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2010 to April 12, 2010**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 12, 2010**

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

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**Augusta, Maine**  
**2010**

A. Forest management activities as defined in section 480-B, subsection 2-B, including associated road construction or maintenance, do not require review pursuant to this section as long as any road construction is used primarily for forest management activities that do not constitute a change in land use under rules adopted by the Department of Conservation, Bureau of Forestry concerning forest regeneration and clear-cutting and is not used primarily to access development, unless the road is removed and the site restored to its prior natural condition. Roads must be the minimum feasible width and total length consistent with forest management activities. This exemption does not apply to roads within a subdivision as defined in Title 30-A, section 4401, subsection 4, for the organized portions of the State.

**Sec. 3. 38 MRSA §480-Q, sub-§7-A, ¶A,** as enacted by PL 1989, c. 838, §6, is repealed.

**Sec. 4. 38 MRSA §480-Q, sub-§7-A, ¶D,** as amended by PL 2001, c. 618, §4, is further amended to read:

D. Any road construction is used primarily for forest management activities that do not constitute a change in land use under rules adopted by the Department of Conservation, Bureau of Forestry concerning forest regeneration and clear-cutting and is not used primarily to access development but is used primarily for forest management activities, unless the road is removed and the site restored to its prior natural condition. Roads must be the minimum feasible width and total length consistent with forest management activities. This exemption does not apply to roads ~~that provide access to development in~~ within a subdivision as defined in Title 30-A, section 4401, subsection 4, for the organized portions of the State, or Title 12, section 682, subsection 2-A, including divisions of land exempted by Title 12, section 682-B, for portions of the State under the jurisdiction of the Maine Land Use Regulation Commission;

See title page for effective date.

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**CHAPTER 538  
S.P. 632 - L.D. 1667**

**An Act To Amend the Election  
Laws and Other Related Laws**

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

**Sec. 1. 1 MRSA §353,** as amended by PL 2009, c. 462, Pt. D, §1, is further amended to read:

**§353. Explanation of proposed amendments and  
statewide referenda**

With the assistance of the Secretary of State, the Attorney General shall prepare a brief explanatory statement that must fairly describe the intent and content and what a "yes" vote favors and a "no" vote opposes for each constitutional resolution or statewide referendum that may be presented to the people and that must include any information prepared by the Treasurer of State under Title 5, section 152. The explanatory statement may not include comments of proponents or opponents as provided by section 354. In addition to the explanatory statement, the Office of Fiscal and Program Review shall prepare an estimate of the fiscal impact of each constitutional resolution or statewide referendum on state revenues, appropriations and allocations within ~~10~~ 15 business days after the receipt of the application and full text of the proposed law by the Secretary of State. The fiscal impact estimate must summarize the aggregate impact that the constitutional resolution or referendum will have on the General Fund, the Highway Fund, Other Special Revenue Funds and the amounts distributed by the State to local units of government.

**Sec. 2. 21-A MRSA §3,** as amended by PL 1997, c. 436, §8, is further amended to read:

**§3. Signatures and names**

When this Title requires a name or signature on a document, immaterial irregularities ~~shall do not~~ invalidate the name or signature if the identity of the person named is clear to the public official charged with reviewing that document.

**1. Immaterial irregularities.** Immaterial irregularities include, but are not limited to, misspelling, inclusion or omission of initials and substitution of initials or nicknames for given names.

**2. Application.** This policy ~~shall apply~~ applies to circumstances including, but not limited to, the following:

- A. Absentee ballot applications;
- B. Absentee ballot affidavits;
- C. Signatures on petitions; and
- D. Names appearing for write-in candidates on ballots.

**Sec. 3. 21-A MRSA §7,** as enacted by PL 1989, c. 166, §1, is amended to read:

**§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. 4. 21-A MRSA §101, sub-§1**, as amended by PL 2009, c. 253, §8, is repealed and the following enacted in its place:

**1. Qualifications.** The registrar must be a citizen of the United States, a resident of the State and at least 18 years of age. The registrar may not be an employee of a party or candidate or be an officer of a municipal, county or state party committee. In the electoral division in which the registrar is appointed, the registrar may not:

A. Hold or be a candidate for any state or county office;

B. Be a treasurer for a candidate; or

C. Be a municipal officer as defined by Title 30-A, section 2001.

**Sec. 5. 21-A MRSA §141, sub-§1**, as amended by PL 1989, c. 313, §2, is further amended to read:

**1. Influence prohibited.** The registrar ~~shall~~ may not attempt to influence an applicant in any aspect of the enrollment procedure and ~~shall~~ may not allow anyone else present to do so.

**Sec. 6. 21-A MRSA §501, sub-§3**, as amended by PL 2001, c. 310, §27, is further amended to read:

**3. Provisions applicable to both towns and cities.** A warden, ward clerk or any deputy warden may not be an officer of a municipal committee of a political party. Ward clerks or deputy wardens shall perform the duties of the warden when necessary and may not replace election clerks prescribed by this Title. The warden, ward clerk and deputy wardens must be registered voters of the municipality, except when a nonresident clerk is acting as either warden, ward clerk or deputy warden. When there is a vacancy in the office of warden, ward clerk or deputy warden, a person who is a resident of the county may serve as a replacement on a per election basis until the end of the vacated term. Before assuming the duties of office, the warden is sworn by the municipal clerk, and the ward clerk or deputy warden is sworn by the municipal clerk or by the warden.

**Sec. 7. 21-A MRSA §625**, as amended by PL 2009, c. 341, §2, is further amended to read:

**§625. Posting of sample ballots**

At least 7 days before an election, the clerk shall post a sample ballot, furnished to the clerk under sec-

~~tion 603, and the fiscal impact statement for direct initiatives of legislation furnished to the clerk under section 629, subsection 1, paragraph D-1 in a conspicuous, public place in each voting district.~~

**Sec. 8. 21-A MRSA §629, sub-§1, ¶D-1**, as enacted by PL 2009, c. 341, §3, is amended to read:

D-1. The Secretary of State shall provide adequate copies of the fiscal impact statement for each direct initiative of legislation prepared in accordance with Title 1, section 353, which must be placed in each voting booth posted with the sample ballots outside the guardrail so as to be visible to voters.

**Sec. 9. 21-A MRSA §756**, as amended by PL 2003, c. 447, §§32 and 33, is further amended to read:

**§756. Procedure on receipt**

When the clerk receives a return envelope apparently containing an absentee ballot, ~~he~~ the clerk shall observe the following procedures.

**1. Time of receipt noted.** ~~He~~ The clerk shall note the date and time of delivery on each return envelope. On request, ~~he~~ the clerk shall give the person who delivers the ballot a receipt, stating the exact time of delivery.

**2. Clerk to examine signatures and affidavit.** ~~He~~ The clerk shall compare the signature of the voter on the application, where required, with that on the corresponding return envelope. ~~He~~ The clerk shall examine the affidavit on the return envelope. If the signatures appear to have been made by the same person and if the affidavit is properly completed, ~~he~~ the clerk shall write "OK" and ~~his~~ the clerk's initials on the return envelope. Otherwise, ~~he~~ the clerk shall note any discrepancy on the return envelope.

A. If the signatures do not appear to have been made by the same person, but this discrepancy is apparently the result of the voter's having properly obtained assistance under either section 753-A, subsection 5, or section 754-A, subsection 3, or both, then the clerk shall note the discrepancy on the return envelope, but shall also write "OK" and the clerk's initials on the return envelope.

**3. Application attached.** The clerk shall attach each application, where required, to the corresponding envelope. ~~He shall~~ The clerk may not open any return envelope.

**5. Envelopes and lists delivered.** On election day, the clerk shall deliver or have delivered the return envelopes prescribed by section 752, subsection 3, with the applications, when required, attached and a copy of the list required by section 753-B, subsection 6, to the warden of the voting district in which the voter is registered, except in those municipalities where the clerk or the clerk's designee processes the

absentee ballots centrally. In those municipalities where the absentee ballots are processed centrally, the clerk shall deliver or have delivered the materials described in this subsection to the person authorized by the clerk to process absentee ballots at the designated central location. After processing the absentee ballots, the warden or the clerk shall attach the copy of the list of absentee voters to the incoming voting list and seal it as provided in section 698.

**6. Procedure when duplicate envelopes received from same voter.** If more than one return envelope is received from the same voter who was authorized to receive a 2nd state absentee ballot pursuant to section 753-B, then the clerk or warden shall process and count the ballot from the envelope marked "second ballot issued" or bearing the latest date and time and shall reject and keep sealed the first absentee envelope. If more than one return envelope is received from the same voter who was not authorized to receive a 2nd state absentee ballot pursuant to section 753-B, then the clerk or warden shall process and count the ballot from the envelope bearing the earliest date and time. If only one return envelope is received from a voter who was authorized to receive a 2nd state absentee ballot pursuant to section 753-B, then the clerk or warden shall process and count that ballot for all offices or questions for which the voter was entitled to vote.

**Sec. 10. 21-A MRSA §759, sub-§3,** as amended by PL 1999, c. 645, §9, is further amended to read:

**3. Rejected if incorrect.** The warden shall may not open the envelope and shall write "Rejected" on it, the reason why and ~~his~~ the warden's initials if ~~he~~ 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-A, subsection 5 or section 754-A, subsection 3, in cases where 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.

**Sec. 11. 21-A MRSA §759, sub-§8,** as repealed and replaced by PL 1999, c. 645, §10, is amended to read:

**8. Inspection of absentee envelopes before processing.** If a ~~candidate or the candidate's representative~~ member of the public notifies the clerk before 5 p.m. on the day before election day that the ~~candidate~~

~~or the candidate's representative~~ person wishes to inspect absentee ballot applications and envelopes before they are processed, the warden or clerk shall allow the ~~candidate or representative~~ requestor to inspect the applications and envelopes of ballots before they are processed or for 30 minutes after the time specified in the notice for processing on election day. The warden may immediately proceed to process the ballots after the ~~candidate or representative~~ person has completed the review.

If the municipality processes absentee ballots only after the polls close on election day, then ~~the candidate or the candidate's representative~~ a member of the public who wishes to inspect absentee materials must notify the warden by 5 p.m. on election day that the ~~candidate or the candidate's representative~~ person wishes to inspect absentee ballot applications and envelopes after the polls close. The warden shall allow the ~~candidate or representative~~ requestor to inspect the applications and envelopes for 30 minutes after the polls close. The warden may immediately proceed to process the ballots after the ~~candidate or representative~~ person has completed the review.

**Sec. 12. 21-A MRSA §760-B, sub-§3,** as enacted by PL 2007, c. 455, §45, is amended to read:

**3. Inspection of absentee envelopes before processing.** A member of the public may make a written request of the clerk to inspect absentee ballot applications and envelopes before they are processed if the request is made by 9:00 a.m. on the day immediately prior to election day. The clerk shall make the absentee ballot applications and envelopes received by that time available for public inspection for one hour before the ~~first~~ starting time specified in the notice of election for processing the absentee ballots. The clerk may immediately proceed to process the ballots after the one-hour inspection time has elapsed.

**Sec. 13. 21-A MRSA §760-B, sub-§4,** as enacted by PL 2007, c. 455, §45, is amended to read:

**4. Processing and other procedures.** The clerk shall use the procedure described in this section when processing the absentee ballots during the designated times. Procedures for handling full ballot boxes, poll-watching and challenging ballots are conducted in the same manner as election day or as ~~nearly~~ close as practicable.

**Sec. 14. 21-A MRSA §828,** as enacted by PL 1985, c. 161, §6, is amended to read:

**§828. Security for keys**

The municipal clerk shall keep the keys to each voting machine in a vault or safe ~~which~~ that is kept securely locked when the keys are not being removed from or replaced in it. ~~He shall~~ The municipal clerk may not allow any unauthorized person to have possession of the keys to any voting machine.

**1. Keys returned.** A person who is authorized to have possession of the keys to a voting machine must return them to the clerk when ~~he~~ the person no longer needs them for the authorized purpose.

**Sec. 15. 21-A MRSA §850**, as enacted by PL 1985, c. 161, §6, is amended to read:

**§850. Secrecy preserved**

The warden at each voting place ~~shall~~ may not remain or allow any other person to remain where ~~he~~ the warden or person can see how anyone votes, except that a proper official may remain when ~~his~~ the official's assistance has been requested by a voter.

See title page for effective date.

**CHAPTER 539**

**H.P. 1079 - L.D. 1535**

**An Act To Create a Smart Grid Policy in the State**

**Emergency preamble.** **Whereas**, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas**, the State currently lacks a comprehensive state policy on smart grid energy infrastructure but faces critical decisions regarding the implementation of smart grid technology and the creation of such a comprehensive smart grid policy; and

**Whereas**, the cost of electricity to consumers in the State is high compared with costs in similar markets elsewhere and impedes economic development in the State; and

**Whereas**, the State has recognized the consequences of climate change and has committed to policies to reduce emissions of greenhouse gases; and

**Whereas**, the State's electric grid and long-term infrastructure investment are vital to continued security and economic development, and a smart grid will deliver electricity from suppliers to consumers using modern technology to increase reliability, save energy, reduce costs and enable greater consumer choice; and

**Whereas**, smart grid functions hold great promise to reduce costs for consumers by improving efficiency and enhancing reliability for the benefit of ratepayers and the general public, and smart grid applications that are available now to serve the needs of customers in the State and other public interests should be implemented in a timely and responsible manner in consideration of all relevant factors; and

**Whereas**, it is vital that a comprehensive smart grid policy be developed to ensure that all ratepayers

and the State as a whole are afforded the benefits of smart grid infrastructure; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 35-A MRSA §102, sub-§13**, as amended by PL 1999, c. 579, §3, is further amended to read:

**13. Public utility.** "Public utility" includes every gas utility, natural gas pipeline utility, transmission and distribution utility, telephone utility, water utility and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area. "Public utility" includes a smart grid coordinator as defined in section 3143, subsection 1, paragraph B.

Nothing in this subsection precludes:

A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature;

B. The commission's jurisdiction and control over and regulation of a public utility that provides, in addition to other services, radio paging service or mobile telecommunications services;

C. The commission's jurisdiction and control over and regulation of basic exchange telephone service offered by a provider of mobile telecommunications services if, after investigation and hearing, the commission determines that the provider is engaged in the provision of basic exchange telephone service; and

D. Negotiations for, or negates agreements or arrangements existing on the effective date of this paragraph relating to, rates, terms and conditions for interconnection provided by a telephone utility to a company providing radio paging or mobile telecommunications services.

**Sec. 2. 35-A MRSA §3143** is enacted to read: