

Title 21-A: ELECTIONS
Chapter 11: BALLOT QUESTIONS

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Maine Revised Statutes
Title 21-A: ELECTIONS
Chapter 11: BALLOT QUESTIONS

§901. PETITIONS

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, addresses and signatures of 5 voters, in addition to the applicant, 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 and a summary that explains the purpose and intent of the direct initiative. The voter submitting the application shall sign the application in the presence of the Secretary of State, the Secretary of State's designee or a notary public. [2009, c. 253, §57 (AMD).]

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. The date the approved form of the petition is provided to the voter submitting the application is the date of issuance for the purposes of this chapter. [1993, c. 695, §34 (AMD).]

1. Limitation on petitions. An application for a people's veto referendum petition must be filed in the Department of the Secretary of State within 10 business 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.

[1997, c. 581, §2 (AMD) .]

2. Furnished within 10 days.

[1993, c. 352, §1 (RP) .]

3. Forms printed by voters.

[1993, c. 352, §1 (RP) .]

3-A. Review for proper form. The Secretary of State shall review the proposed law for a direct initiative of legislation within 15 business days after receipt of the application and either reject the application or provide a first revised draft of the initiative legislation to the applicant within that time. 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 [1993, c. 352, §1 (NEW) .]

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. [1993, c. 352, §1 (NEW) .]

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.

The applicant shall submit each subsequent draft of the legislation to the Secretary of State for review following the same process. The Secretary of State shall review each subsequent draft from the applicant and provide a revised draft or written response suggesting how the proposed law may be modified to conform to the requirements of this section within 10 business days. The applicant must give written consent to the final language of the proposed law to the Secretary of State before the petition form is designed by the Secretary of State.

[2009, c. 253, §58 (AMD) .]

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

[1993, c. 352, §1 (NEW) .]

4. Ballot question. The ballot question for an initiative or a people's veto 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 Secretary of State shall provide the ballot question to the applicant for a people's veto referendum within 10 business days after receipt of a properly completed application. If an initiative is filed with the Secretary of State and certified pursuant to the Constitution of Maine, Article IV, Part Third, Section 18 as having a sufficient number of signatures and is not enacted without change by the Legislature at the session at which it is presented, then the Secretary of State shall propose a ballot question to be submitted for public comment as provided in section 905-A.

[2007, c. 234, §2 (AMD) .]

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 and the fiscal impact statement required by Title 1, section 353 must be printed on the petition form immediately following the statements required by section 901-A.

[2009, c. 341, §4 (AMD) .]

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.

[1993, c. 352, §1 (NEW) .]

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.

[1993, c. 352, §1 (NEW) .]

SECTION HISTORY

1985, c. 161, §6 (NEW). 1991, c. 862, §8 (AMD). 1993, c. 352, §1 (AMD). 1993, c. 695, §§33,34 (AMD). 1997, c. 581, §§2-4 (AMD). 2007, c. 234, §§1-3 (AMD). 2009, c. 253, §§57, 58 (AMD). 2009, c. 341, §4 (AMD).

§901-A. PETITION REQUIREMENTS FOR DIRECT INITIATIVES OF LEGISLATION

The following provisions apply to direct initiatives of legislation under the Constitution of Maine, Article IV, Part Third, Section 18. [2005, c. 356, §1 (NEW) .]

1. Opportunity to read direct initiative summary. A person circulating a petition must provide the voter the opportunity to read the proposed direct initiative summary and fiscal impact statement required by section 901 prior to that voter signing the petition. The summary presented to the voter must be as it appears on a publicly accessible website established by the Secretary of State.

[2009, c. 341, §5 (AMD) .]

2. Required statements; placement of information. On each page of a petition that contains space intended for voter signatures, the Secretary of State shall include a space at the top right or left corner of each such page to be submitted to the voters, which must be filled in with the name of the circulator collecting signatures on that petition and a unique identifying number, and include the fiscal impact of the initiative as described in Title 1, section 353 directly below the following statement at the top of the petition in a type size of no less than 16 points:

"Freedom of Citizen Information: Before a registered voter signs any initiative petition, signature gatherers must offer the voter the opportunity to read the proposed initiative summary and fiscal impact statement prepared by the Secretary of State."

[2009, c. 611, §1 (AMD) .]

SECTION HISTORY

2005, c. 356, §1 (NEW). 2007, c. 234, §4 (AMD). 2009, c. 341, §5 (AMD). 2009, c. 611, §1 (AMD).

§902. VERIFICATION AND CERTIFICATION

The verification and certification of the petition as required by the Constitution of Maine, Article IV, Part Third, Section 20 must be worded so that a single verification or certification may cover one or more pages fastened together as a single petition. [2017, c. 277, §4 (AMD) .]

The petitions must be signed in the same manner as are nonparty nomination petitions under section 354, subsections 3 and 4. The circulator of a petition must sign the petition and verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the circulator personally witnessed all of the signatures to the petition and that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be and that each signature authorized under section 153-A was made by the authorized signer in the presence and at the direction of the voter. After administering the oath to the circulator, the notary public or other authorized person must sign the notarial certificate on the petition while in the presence of the circulator. After the petition is signed and verified in this manner, the petition must be submitted to the registrar for certification in accordance with the Constitution of Maine, Article IV, Part Third, Section 20. If the petitions submitted to the registrar are not signed and verified in accordance with this paragraph, the registrar may not certify the petitions and is required only to return the petitions. The clerk or registrar shall keep a log of petitions submitted to the municipal office for verification. The log must contain the title of the petition, the name of the person submitting the petition, the date of submission, the number of petition forms submitted and the date and manner by which the petitions were returned. The notary public or other authorized person who administered the oath to the circulator must keep a log of petitions for which that person administered the circulator's oath, listing the title of the petition, the name of the circulator taking the oath, the date of the oath and the number of petition forms signed and verified by the circulator that day. [2017, c. 277, §4 (AMD) .]

SECTION HISTORY

1985, c. 161, §6 (NEW). 1997, c. 581, §5 (AMD). 2009, c. 611, §2 (AMD). 2011, c. 342, §31 (AMD). 2017, c. 277, §4 (AMD).

§902-A. COPIES OF PETITIONS REQUIRED

If the registrar or clerk suspects that a petition was submitted in violation of any provision of this chapter, the registrar or clerk shall immediately notify the Secretary of State and provide a copy of the petition to the Secretary of State. [2009, c. 611, §3 (NEW).]

SECTION HISTORY

2009, c. 611, §3 (NEW).

§903. INSTRUCTIONS TO BE PRINTED ON

The Secretary of State shall prepare complete instructions to inform the clerk and the signer or circulator of a petition of the statutory and constitutional requirements. The instructions must specify the conditions which have been held to invalidate either individual signatures or complete petitions. The instructions must be printed in bold type or capital letters on the petition. [1985, c. 161, §6 (NEW).]

SECTION HISTORY

1985, c. 161, §6 (NEW).

§903-A. CIRCULATION

Petitions issued under this chapter may be circulated by any Maine resident who is a registered voter acting as a circulator of a petition. A circulator of a petition solicits signatures for the petition by presenting the petition to the voter, asking the voter to sign the petition and personally witnessing the voter affixing the voter's signature to the petition. The circulator of the petition must comply with the provisions of section 902. [2015, c. 99, §1 (AMD).]

1. Filing.

[2007, c. 234, §5 (RP) .]

2. Invalid petition.

[2007, c. 234, §5 (RP) .]

3. Information to circulators. An applicant for a direct initiative or a people's veto referendum pursuant to section 901 shall provide to each person who will be circulating petitions a copy of the laws and rules governing the circulation of petitions for a direct initiative or people's veto as provided by the Secretary of State. The Secretary of State shall provide a copy of the laws and rules governing the circulation of petitions for a direct initiative or people's veto when an approved petition form is provided to an applicant for a direct initiative or people's veto referendum. The copy of the laws and rules provided by the Secretary of State may also include comments that may aid in the comprehension of those laws and rules.

[2005, c. 575, §1 (NEW) .]

SECTION HISTORY

1989, c. 92, §1 (NEW). 1993, c. 695, §35 (AMD). 1993, c. 695, §38 (AFF). 1997, c. 637, §1 (AMD). 2005, c. 575, §1 (AMD). 2007, c. 234, §5 (AMD). 2015, c. 99, §1 (AMD).

§903-C. DIRECT INITIATIVE AND PEOPLE'S VETO PETITION ORGANIZATION REQUIRED TO BE REGISTERED

A petition organization shall register with the Secretary of State in accordance with this section. For the purposes of this section, "petition organization" means a business entity that receives compensation for organizing, supervising or managing the circulation of petitions for a direct initiative of legislation or a people's veto referendum. [2009, c. 611, §4 (NEW).]

1. Registration. Prior to organizing, supervising or managing the circulation of petitions for a direct initiative of legislation or a people's veto referendum, a petition organization, in addition to meeting any other requirement to transact business in this State, shall register with the Secretary of State on a form prescribed by the Secretary of State. The registration form must include the following:

A. The ballot question or title of each direct initiative of legislation or people's veto referendum for which the petition organization will receive compensation; [2009, c. 611, §4 (NEW).]

B. Contact information for the petition organization, including the name of the petition organization, street address or post office box, telephone number and e-mail address; [2015, c. 99, §2 (AMD).]

C. The name and signature of a designated agent for the petition organization; and [2015, c. 99, §2 (AMD).]

D. A list containing the names of all individuals hired by the petition organization to assist in circulating petitions or in organizing, supervising or managing the circulation. The list must be updated and resubmitted to the Secretary of State when the petitions are filed pursuant to the Constitution of Maine, Article IV, Part Third, Section 17 or 18. [2015, c. 99, §2 (NEW).]

The information contained in the registration form must be made available for public inspection and must be posted on the publicly accessible website of the Secretary of State.

[2015, c. 99, §2 (AMD) .]

SECTION HISTORY

2009, c. 611, §4 (NEW). 2015, c. 99, §2 (AMD).

§903-D. NOTARIES PUBLIC

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/13/18)

1. Notaries public. A notary public or other person authorized by law to administer oaths or affirmations is prohibited from notarizing or certifying a petition under section 902:

A. If employed or compensated by a petition organization for any purpose other than notarial acts; [2017, c. 277, §5 (NEW).]

B. If providing services or offering assistance to a ballot question committee established to influence the ballot measure for which the petitions are being circulated or employed by or receiving compensation from such a ballot question committee for any purpose other than notarial acts; or [2017, c. 277, §5 (NEW).]

C. If a treasurer, principal officer, primary fundraiser or primary decision maker to a ballot question committee established to influence the ballot measure for which petitions are being circulated. [2017, c. 277, §5 (NEW).]

[2017, c. 277, §5 (NEW) .]

SECTION HISTORY

2017, c. 277, §5 (NEW). 2017, c. 418, §2 (RP).

§903-D. NOTARIES PUBLIC

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT REPEALED 12/13/18)

SECTION HISTORY

2017, c. 277, §5 (NEW). 2017, c. 418, §2 (RP).

§903-E. PERSONS NOT AUTHORIZED TO ADMINISTER AN OATH OR AFFIRMATION TO A PETITION CIRCULATOR

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE 12/13/18)

1. Certain notaries public and others. A notary public or other person authorized by law to administer oaths or affirmations generally is not authorized to administer an oath or affirmation to the circulator of a petition under section 902 if the notary public or other generally authorized person is:

- A. Providing any other services, regardless of compensation, to initiate the direct initiative or people's veto referendum for which the petition is being circulated. For the purposes of this paragraph, "initiate" has the same meaning as section 1052, subsection 4-B; or [2017, c. 418, §3 (NEW).]
- B. Providing services other than notarial acts, regardless of compensation, to promote the direct initiative or people's veto referendum for which the petition is being circulated. [2017, c. 418, §3 (NEW).]

[2017, c. 418, §3 (NEW) .]

SECTION HISTORY

2017, c. 418, §3 (NEW).

§904. VIOLATIONS AND PENALTIES

A person commits a Class E crime if that person: [2007, c. 455, §53 (RPR).]

1. False swearing; signature. Circulates an initiative or referendum petition and swears that a signature is that of a person whose name it purports to be when the circulator knows that the signature is not that of the person;

[2007, c. 455, §53 (RPR) .]

2. False acknowledgement of oath. Is authorized by law to administer oaths and willfully and falsely acknowledges the oath of a circulator of an initiative or referendum petition when that oath was not made in the presence of that person;

[2007, c. 455, §53 (RPR) .]

3. False signature. Knowingly signs an initiative or referendum petition with a name other than the person's own name;

[2007, c. 455, §53 (RPR) .]

4. Duplicate signature. Knowingly signs the person's name more than once on initiative or referendum petitions for the same measure; or

[2007, c. 455, §53 (RPR) .]

5. False swearing; signature made in circulator's presence. Circulates an initiative or referendum petition and willfully swears that a signature to the petition was made in the circulator's presence when it was not.

[2007, c. 455, §53 (NEW) .]

SECTION HISTORY

1985, c. 161, §6 (NEW). 2007, c. 455, §53 (RPR).

§904-A. PAYMENT PER SIGNATURE; PROHIBITION (REPEALED)

SECTION HISTORY

1993, c. 599, §1 (NEW). 1997, c. 61, §1 (AMD). 2001, c. 516, §19 (RP).

§904-B. PAYMENT FOR SIGNATURE; PROHIBITION

A circulator of an initiative or a referendum petition or a person who causes the circulation of an initiative or referendum petition may not pay or offer to pay any compensation to a person for the person's signature on the initiative or referendum petition. [1993, c. 599, §2 (NEW).]

SECTION HISTORY

1993, c. 599, §2 (NEW).

§905. REVIEW OF INITIATIVE AND REFERENDUM PETITIONS

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 from the date of filing of a written petition in the Department of the Secretary of State under the Constitution of Maine, Article IV, Part Third, Section 17 or 18.

The Secretary of State may invalidate a petition if the Secretary of State is unable to verify the notarization of that petition.

[2017, c. 277, §6 (AMD) .]

2. Superior Court. Any voter named in the application under section 901, or any person who has validly signed the petitions, if these petitions are determined to be invalid, or any other voter, if these petitions are determined to be valid, may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action must be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80C, except as modified by this section. In reviewing the decision of the Secretary of State, the court shall determine whether the description of the subject matter is understandable to a reasonable voter reading the question for the first time and will not mislead a reasonable voter who understands the proposed legislation into voting contrary to that voter's wishes. This action must be commenced within 10 days of the date of the decision of the Secretary of State. Upon timely application, anyone may intervene in this action when the

applicant claims an interest relating to the subject matter of the petitions, unless the applicant's interest is adequately represented by existing parties. The court shall issue its written decision containing its findings of fact and stating the reasons for its decision within 40 days of the date of the decision of the Secretary of State.

[2009, c. 611, §6 (AMD) .]

3. Supreme Judicial Court. Any aggrieved party may appeal the decision of the Superior Court, on questions of law, by filing a notice of appeal within 3 days of that decision. The appellant must file the required number of copies of the record with the clerk within 3 days after filing notice of appeal. After a notice of appeal is filed, the parties have 10 days to file briefs with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The standard of review shall be the same as for the Superior Court. The court shall issue its decision within 30 days of the date of the decision of the Superior Court.

[1987, c. 119, §1 (AMD) .]

SECTION HISTORY

1985, c. 161, §6 (NEW). 1987, c. 119, §1 (AMD). 1993, c. 352, §2 (AMD). 2009, c. 611, §5, 6 (AMD). 2017, c. 277, §6 (AMD).

§905-A. PUBLIC COMMENT ON INITIATIVE QUESTIONS

No later than 10 business days after the Legislature adjourns sine die, the Secretary of State shall give public notice of a proposed ballot question for any initiative that will be submitted to the voters at the next statewide election or special election by posting all proposed ballot questions on the Secretary of State's publicly accessible website. The Secretary of State may also publish notice for one day in newspapers having general circulation in the State. After giving public notice of a proposed ballot question in accordance with this section, the Secretary of State shall provide a 30-day public comment period for the purpose of receiving comments on the content and form of proposed questions to be placed on the ballot for any pending initiatives. No later than 10 days after receiving public comments in accordance with this section and after review of those comments, the Secretary of State shall write the ballot question for any pending initiative.

[2007, c. 234, §6 (NEW) .]

SECTION HISTORY

2007, c. 234, §6 (NEW) .

§906. FORM OF BALLOT

The Secretary of State shall prepare the ballots for referendum questions according to the following provisions, subject to the authority contained in section 604-A. [1987, c. 188, §16 (AMD) .]

1. Referendum questions on separate ballot.

[1997, c. 581, §6 (RP) .]

1-A. Referendum questions on same ballot. Referendum questions may be printed on the same ballot used for the election of state candidates or municipal elections, as determined by the Secretary of State in accordance with section 604-A. There must be a place on the ballot for the voter to designate the voter's choice. A referendum question must be arranged so that the voter may vote for or against it.

[2001, c. 310, §68 (AMD) .]

2. Bond issues; total interest.

[2009, c. 253, §59 (RP) .]

3. Distinctively colored.

[2013, c. 457, §5 (RP) .]

4. Size. The Secretary of State shall determine the size of the ballots.

[1985, c. 161, §6 (NEW) .]

5. Contents concealed.

[1997, c. 581, §9 (RP) .]

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. [1993, c. 352, §3 (RPR) .]

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. [1993, c. 352, §3 (RPR) .]

C. The question must be phrased so that an affirmative vote is in favor of the people's veto or direct initiative. [1993, c. 352, §3 (RPR) .]

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. [1993, c. 352, §3 (RPR) .]

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. [1993, c. 352, §3 (RPR) .]

[1993, c. 352, §3 (RPR) .]

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; [1993, c. 352, §4 (NEW) .]

B. Having more than one question would help voters to better understand the subject matter; and [1993, c. 352, §4 (NEW) .]

C. The Legislature determines the questions are severable and can be enacted or rejected separately without negating the intent of the Legislature. [1993, c. 352, §4 (NEW) .]

[1993, c. 352, §4 (NEW) .]

7. Order of questions on the ballot. The Secretary of State shall arrange questions on the ballot in the following order: carry-over measures from a previous election; people's veto questions; initiated measures; bond issues; constitutional amendments; and other legislatively proposed referenda. Within each group, questions must be arranged in a random order determined by a selection process conducted in public. All ballot questions must be numbered sequentially.

[1997, c. 581, §10 (AMD) .]

SECTION HISTORY

1985, c. 161, §6 (NEW). 1987, c. 119, §2 (AMD). 1987, c. 188, §16 (AMD). 1993, c. 352, §§3,4 (AMD). 1993, c. 473, §41 (AMD). 1993, c. 473, §46 (AFF). 1995, c. 459, §114 (AMD). 1997, c. 581, §§6-10 (AMD). 2001, c. 310, §68 (AMD). 2009, c. 253, §59 (AMD). 2013, c. 457, §5 (AMD).

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