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Public Law
124th Legislature
Second Regular Session

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 section 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, pollwatching 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.

Effective July 12, 2010