

## CHAPTER 6

### CONFIRMATION OF APPOINTMENTS

#### **§151. Confirmation procedure**

**(REPEALED)**

##### SECTION HISTORY

PL 1975, c. 771, §11 (NEW). PL 1977, c. 291 (AMD). PL 1989, c. 25 (AMD). PL 1991, c. 842, §§1-3 (AMD). PL 1993, c. 685, §A1 (RP).

#### **§151-A. Correction of statutory references to committees**

**(REPEALED)**

##### SECTION HISTORY

PL 1979, c. 1 (NEW). PL 1993, c. 685, §A2 (RP).

#### **§152. Designation of committee for review of nominations for judicial offices and of Attorney General**

**(REPEALED)**

##### SECTION HISTORY

PL 1975, c. 771, §11 (NEW). PL 1993, c. 685, §A3 (RP).

#### **§153. Scope**

The nomination and confirmation of all judicial officers whose confirmation by the Legislature is required by the Constitution of Maine and the nomination and confirmation of all other officers whose confirmation by the Legislature is required by law are governed by the provisions of this chapter. [PL 1993, c. 685, Pt. A, §4 (NEW).]

##### SECTION HISTORY

PL 1993, c. 685, §A4 (NEW).

#### **§154. Nominations**

The Governor shall, within 20 days after the convening of each legislative session, provide to each joint standing committee of the Legislature a list of all positions for which legislative confirmation is required that are within each committee's jurisdiction and that are vacant or have terms expiring before the convening of the next regular session of the Legislature. The chairs of each joint standing committee and the Governor, or their designees, shall negotiate in good faith to establish a schedule for nominations and consideration of nominations during the session. [PL 1993, c. 685, Pt. A, §4 (NEW).]

When nominating a person to a position for which confirmation is required, the Governor shall post the nomination and simultaneously deliver to both the President of the Senate and the Speaker of the House of Representatives notification of the name of the nominee, the office to which that person is nominated and an information packet, which must include the background information and questionnaire provided to the Office of the Governor by the nominee and may include other information the Governor determines appropriate. The date of the posting and notice is referred to in this chapter as the "posting date." [PL 1993, c. 685, Pt. A, §4 (NEW).]

When the nomination is received, the President of the Senate and the Speaker of the House of Representatives shall provide notice of the nomination and copies of accompanying materials to the

chairs of the appropriate joint standing committee, to the Legislative Information Office and to the partisan staff assistants designated by the majority and minority parties of the Legislature. The Legislative Information Office shall establish an official file for each nominee, which is subject to the provisions of section 159. The file must include the information submitted by the Governor pursuant to this section. [PL 1993, c. 685, Pt. A, §4 (NEW).]

The Governor may withdraw a nomination at any time before the Senate votes pursuant to section 158 by sending a written notice of withdrawal to the President of the Senate. [PL 1993, c. 685, Pt. A, §4 (NEW).]

Notwithstanding the other provisions of this chapter, if the Governor posts a nomination within 30 days preceding the statutory date of adjournment, a legislative committee to whom a nominee is to be referred for confirmation review may, by 2/3 vote, request the President of the Senate and the Speaker of the House of Representatives to delay this review in order to complete the committee's legislative work. If the President of the Senate and the Speaker of the House of Representatives approve the request, the time periods for legislative action under this chapter begin on the date the Legislature adjourns. [PL 1993, c. 685, Pt. A, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 685, §A4 (NEW).

#### §155. Preliminary procedures

The chairs of the appropriate joint standing committee shall: [PL 1993, c. 685, Pt. A, §4 (NEW).]

**1. Schedule prehearing conference.** Schedule a prehearing conference in cooperation with the Legislative Information Office. The prehearing conference must be held within 21 days of the posting date;

[PL 1993, c. 685, Pt. A, §4 (NEW).]

**2. Request reports.** Request background reports from the partisan staff assistants; and

[PL 1993, c. 685, Pt. A, §4 (NEW).]

**3. Inform nominee.** Advise the nominee of the date of the prehearing conference and the deadline for completion of a questionnaire from the committee and submission of supplemental materials by the nominee. The deadline is 15 days from the posting date unless the 15th day is not a business day, in which case the deadline is the next business day.

[PL 1993, c. 685, Pt. A, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 685, §A4 (NEW).

#### §156. Prehearing conference

The appropriate joint standing committee shall hold a prehearing conference for each nominee, unless the committee decides otherwise. If the committee determines that it is necessary to avoid damage to the reputation of the nominee or that there are issues that should be discussed privately, the prehearing conference may go into executive session using the procedures specified in Title 1, section 405, and only the committee members and the partisan staff assistants may attend. All materials prepared for or reviewed in the conference are not subject to the provisions of Title 1, chapter 13 except as provided in section 159. The prehearing conference is governed by the Joint Rules of the Legislature and by the committee's rules of procedure, except that a quorum of 7 committee members must be present for votes in the prehearing conference. Votes may not be taken in executive session. [PL 1993, c. 685, Pt. A, §4 (NEW).]

The committee shall set a public hearing date. [PL 1993, c. 685, Pt. A, §4 (NEW).]

The committee may ask the partisan staff assistants to prepare additional background information for a public hearing. The chairs shall notify the nominee of all actions taken and decisions made at the prehearing conference. [PL 1993, c. 685, Pt. A, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 685, §A4 (NEW).

#### **§157. Public hearings**

The public hearing must be held within 30 days of the posting date except for nominations for judicial officers, for which the public hearing must be held within 35 days of the posting date. The Legislative Information Office shall advertise all public hearings at least 7 days before the public hearing in both the state paper and in a newspaper of general circulation in the area in which the nominee resides. The advertisement must contain the name of the nominee, the position for which the nomination has been made, a summary of the duties of the position, the time, place and date of the public hearing and a statement that written comments relevant to the qualifications of the nominee, together with supporting materials, may be filed with the Legislative Information Office by 9 a.m. on the hearing date. [PL 1993, c. 685, Pt. A, §4 (NEW).]

Additional background information developed by the partisan assistants must be filed with the Legislative Information Office by 9 a.m. on the hearing date. [PL 1993, c. 685, Pt. A, §4 (NEW).]

For the purposes of reviewing nominations pursuant to this chapter, the appropriate joint standing committee may administer oaths and take testimony under oath. Notwithstanding the provisions of section 165, subsection 7, the Legislature or, when the Legislature is not in session, the Legislative Council may grant to the joint standing committee reviewing a nomination any of the powers under section 165, subsection 7. [PL 1993, c. 685, Pt. A, §4 (NEW).]

The committee may take testimony under oath and shall consider the materials on file with the Legislative Information Office. The committee may meet in executive session if new information is raised at the public hearing that, if known earlier, would have been subject to discussion at the prehearing conference. [PL 1993, c. 685, Pt. A, §4 (NEW).]

The committee shall vote on the nomination within 35 days of the posting date, except that for nominations for judicial officers the committee shall vote within 40 days. A vote may not be taken sooner than 15 minutes after the close of the public hearing unless all members of the committee who are present agree. Upon a motion to confirm, properly made and seconded, the committee shall recommend confirmation or denial by a majority vote of the members present and voting at the time the vote is taken. The committee vote is by yeas and nays. Notwithstanding any other rule or provision of law, a member must be present to vote and the vote may not be modified except upon a proper motion for reconsideration. [PL 1993, c. 685, Pt. A, §4 (NEW).]

A tie vote of the committee is deemed a recommendation for denial. The committee chairs shall promptly notify the President of the Senate of the committee's recommendation and the results of the vote, listing the yeas and nays. [PL 1993, c. 685, Pt. A, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 685, §A4 (NEW).

#### **§158. Confirmation vote**

The Senate shall vote by yeas and nays to accept or reject the recommendation of the appropriate joint standing committee. The Senate shall vote on the committee's recommendation within 45 days of the posting date, except that for judicial officers the vote must be held within 50 days of the posting date. The committee's recommendation becomes final unless it is overridden by a vote of 2/3 of the Senators present and voting. [PL 1993, c. 685, Pt. A, §4 (NEW).]

**SECTION HISTORY**

PL 1993, c. 685, §A4 (NEW).

**§159. Confidentiality of records**

Records filed with the Legislative Information Office pursuant to this chapter are public records upon filing and are subject to public review pursuant to Title 1, chapter 13. [PL 1993, c. 685, Pt. A, §4 (NEW).]

All documents prepared for or reviewed in the prehearing conference become public records pursuant to Title 1, chapter 13 at the conclusion of the conference unless 2/3 of the committee votes to seal one or more documents. If a document is sealed, it is exempt from public disclosure. [PL 1993, c. 685, Pt. A, §4 (NEW).]

At the close of each legislative session, the Legislative Information Office shall review each official file, removing each sealed document and replacing it with an information sheet generally identifying the sealed document and noting its removal. The Legislative Information Office shall forward the file to the State Archives. The sealed documents must be destroyed. [PL 1993, c. 685, Pt. A, §4 (NEW).]

**SECTION HISTORY**

PL 1993, c. 685, §A4 (NEW).

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