



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1302

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H.P. 945

House of Representatives, March 19, 2019

### **An Act To Remove Vacancy Provisions for Certain Positions in County Government**

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Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative SAMPSON of Alfred.

Cosponsored by Representatives: DOLLOFF of Rumford, MARTIN of Greene, O'CONNOR of Berwick, ORDWAY of Standish, STETKIS of Canaan, WHITE of Washburn.

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

2 **Sec. 1. 4 MRSA §301, first ¶**, as amended by PL 1995, c. 683, §1, is further  
3 amended to read:

4 Judges of probate under Title 18-C, section 1-309 are elected or appointed as  
5 provided in the Constitution of Maine. Only attorneys at law admitted to the general  
6 practice of law in this State and resident in this State may be elected or appointed as  
7 judges of probate. Their election is effected and determined as is provided respecting  
8 county commissioners; and they enter upon the discharge of their duties on the first day  
9 of January following their election; but, when appointed to fill vacancies, their terms  
10 commence on their appointment. Vacancies caused by death, resignation, removal from  
11 the county, permanent incapacity as defined in Title 30-A, section 1, subsection 2-A or  
12 any other reason must be filled as provided in the Constitution of Maine. ~~In the case of a~~  
13 ~~vacancy in the term of a judge of probate who was nominated by primary election before~~  
14 ~~the general election, the judge of probate appointed by the Governor to fill the vacancy~~  
15 ~~until a successor is chosen at election must be enrolled in the same political party as the~~  
16 ~~judge of probate whose term is vacant. In making the appointment, the Governor shall~~  
17 ~~choose from any recommendations submitted to the Governor by the county committee of~~  
18 ~~the political party from which the appointment is to be made.~~

19 **Sec. 2. 18-C MRSA §1-501, sub-§3**, as enacted by PL 2017, c. 402, Pt. A, §2  
20 and affected by Pt. F, §1, is amended to read:

21 **3. Vacancies.** Vacancies caused by death, resignation, removal from the county,  
22 permanent incapacity as defined in Title 30-A, section 1, subsection 2-A or any other  
23 reason must be filled as provided in the Constitution of Maine. ~~In the case of a vacancy~~  
24 ~~in the term of a register who was nominated by primary election before the general~~  
25 ~~election, the register appointed by the Governor to fill the vacancy until a successor is~~  
26 ~~chosen at election must be enrolled in the same political party as the register whose term~~  
27 ~~is vacant. In making the appointment, the Governor shall choose from any~~  
28 ~~recommendations submitted to the Governor by the county committee of the political~~  
29 ~~party from which the appointment is to be made.~~

30 **Sec. 3. 30-A MRSA §63, last ¶**, as amended by PL 1995, c. 245, §3, is repealed.

31 **Sec. 4. 30-A MRSA §64**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106  
32 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended  
33 to read:

34 **§64. Military or naval service; substitutes**

35 Whenever a county commissioner during the commissioner's term of office in time of  
36 war, contemplated war or emergency, enlists, enrolls, is called or ordered or drafted into  
37 the military or naval service of the United States, that commissioner is not deemed to  
38 have thereby resigned from or abandoned the office, nor is the commissioner removable  
39 from that office during the period of military or naval service except that the term of  
40 office is not lengthened because of this section. From the time of induction into service,

1 the commissioner is regarded as on leave of absence without pay from the office, and the  
2 Governor shall appoint a competent citizen, a resident of the same county, to fill the  
3 office while the county commissioner is in the federal service, but not for a longer period  
4 than the remaining portion of that commissioner's term. ~~In the case of a vacancy in the~~  
5 ~~term of a commissioner who was nominated by primary election before the general~~  
6 ~~election, the commissioner appointed by the Governor must be enrolled in the same~~  
7 ~~political party as the commissioner whose term was vacant.~~ During the period of military  
8 or naval service, the county shall pay to the substitute county commissioner a salary at the  
9 same rate as the rate of pay of the county commissioner and amounts so paid ~~shall~~ must  
10 be deducted from the salary of the county commissioner. The citizen appointed to fill the  
11 temporary vacancy has the title of "substitute county commissioner" and possesses all the  
12 rights and powers and is subject to all the duties and obligations of the county  
13 commissioner.

14 **Sec. 5. 30-A MRSA §151, sub-§3, ¶A**, as enacted by PL 1995, c. 245, §4, is  
15 repealed.

16 **Sec. 6. 30-A MRSA §252, sub-§2, ¶A**, as amended by PL 1995, c. 245, §5, is  
17 repealed.

18 **Sec. 7. 30-A MRSA §371-B, sub-§2**, as repealed and replaced by PL 1997, c.  
19 562, Pt. D, §6 and affected by §11, is amended to read:

20 **2. Filling vacancies.** Vacancies in the office of sheriff caused by death, resignation,  
21 removal from the county, permanent incapacity or any other reason must be filled as  
22 provided in the Constitution of Maine. ~~In the case of a vacancy in the term of a sheriff~~  
23 ~~who was nominated by primary election before the general election the sheriff appointed~~  
24 ~~by the Governor to fill the vacancy until a successor is chosen at election must be~~  
25 ~~enrolled in the same political party as the sheriff whose term is vacant. In making the~~  
26 ~~appointment, the Governor shall choose from any recommendations submitted to the~~  
27 ~~Governor by the county committee of the political party from which the appointment is~~  
28 ~~made.~~

29 **Sec. 8. 33 MRSA §601, last ¶**, as enacted by PL 1995, c. 245, §7, is repealed.

## 30 SUMMARY

31 Current law provides that vacancies in county offices that had originally been filled  
32 by nomination by primary election before the general election must be filled by the  
33 Governor with a successor from the same political party. This bill repeals those  
34 provisions.