

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

S.P. 343 - L.D. 1134

An Act To Make Municipal Recounts Consistent with State Recounts

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

**Sec. 1. 30-A MRSA §2102, sub-§4, ¶C**, as amended by PL 1993, c. 608, §4, is further amended to read:

C. When an original or supplementary petition has been certified insufficient, the committee, within 2 days after receiving the copy of the clerk's certificate, may file a request with the municipal officers for review.

The municipal officers shall inspect the petitions in substantially the same form; and manner and time as a recount hearing under section 2531-A 2531-B and shall make due certificate of that inspection. The municipal officers shall file a copy of that certificate with the municipal clerk and mail a copy to the committee. The certificate of the municipal officers is a final determination of the sufficiency of the petitions.

**Sec. 2. 30-A MRSA §2354, sub-§5**, as amended by PL 1993, c. 608, §5, is further amended to read:

**5. Recount.** Upon written application of 10% of the persons, or 100 persons, whichever is less, whose names were checked on the voting lists at any quasi-municipal corporation or district referendum held under this chapter, ~~a ballot inspection or a recount hearing~~ must be granted. The time limits, rules and all other matters applying to candidates under ~~sections 2530-A and 2531-A~~ section 2531-B apply equally to applicants for ~~either the inspection or~~ recount.

**Sec. 3. 30-A MRSA §2530-A, first and 2nd ¶¶**, as enacted by PL 1993, c. 608, §11, are amended to read:

This section ~~governs all inspections~~ provides for the preliminary inspection of ballots and incoming voting lists cast in any election for municipal office. Inspection procedures for other offices do not apply to elections for municipal office.

If a candidate other than a declared winner in an election applies in writing to the municipal clerk within 5 days after the result of a city election or an election under section 2528 has been declared, the municipal clerk shall permit the candidate or the

candidate's agent, after payment of any deposit fee required under subsection 2 9, to inspect the ballots and incoming voting lists under proper protective regulations for the purpose of determining whether or not to request a recount under section 2531-B. The final day of the 5-day period ends at the close of regular business hours in the office of the municipal clerk. The candidate requesting the inspection may request a random or complete inspection of the ballots and incoming voting lists.

**Sec. 4. 30-A MRSA §2530-A, sub-§§2, 3 and 4**, as enacted by PL 1993, c. 608, §11, are repealed.

**Sec. 5. 30-A MRSA §2530-A, sub-§9** is enacted to read:

**9. Municipal clerk may assess fee.** The municipal clerk may assess a fee for the inspection of ballots as provided in this section. The fee may not exceed the actual costs to administer the inspection of ballots conducted in accordance with this section.

**Sec. 6. 30-A MRSA §2531-A**, as amended by PL 1999, c. 712, §1, is repealed.

**Sec. 7. 30-A MRSA §2531-B** is enacted to read:

**§2531-B. Recount of an election for office**

A recount for an election for municipal office must be performed by a municipal clerk or the clerk's designee pursuant to the provisions of Title 21-A, section 737-A and the rules adopted pursuant to Title 21-A, section 737-A, except that the provisions of Title 21-A, section 737-A, subsections 1, 5 and 12 and the duties of the State Police do not apply to this section. Except for the municipal clerk or the municipal clerk's designee, an election official as defined in Title 21-A, section 1, subsection 14 or an official of a municipal police department performing an official duty in a recount, an employee or elected official of the municipality or a candidate in an election may not participate in a recount of that election under this section.

**1. When deposit is required.** A deposit is not required if the percentage difference shown by the official tabulation is equal to or less than:

A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;

B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or

C. One and one-half percent, if the combined vote for the candidates is 5,001 or over.

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate requesting a recount and the percentage of the total votes for that office received by the nearest winning candidate.

**2. Amount of deposit.** The amount of the deposit is determined by the clerk of the municipality and must be 50% of the reasonable estimate of the cost to the municipality performing the recount.

**3. Forfeiture or refund of deposit.** All deposits required by this section must be made with the municipal clerk when a recount is requested by a losing candidate or an undeclared write-in candidate. This deposit, made by the candidate requesting the recount, is forfeited to the municipality if a subsequent recount fails to change the result of the election. If a recount changes the result of the election, the deposit must be returned to the candidate who paid the deposit. After the completion of the recount, if the recount has not changed the result of the election, the municipality shall calculate the actual cost of the procedure. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate. If the actual cost was greater than the deposit, the candidate shall pay the remainder of the actual cost to the municipality. A candidate who is not required to pay a deposit pursuant to subsection 1 may not be charged for the recount regardless of whether the procedure changes the result of the election.

**Sec. 8. 30-A MRSA §2532**, as amended by PL 1993, c. 608, §14, is further amended to read:

**§2532. Referendum recount procedure**

In the case of a referendum, ~~a ballot inspection or a recount hearing~~ must be granted upon written application of 10% or 100, whichever is less, of the persons whose names were checked on the voting list at any town referendum or ballot question under section 2105 or 2528, or any city referendum. The time limits, rules and all other matters applying to candidates under ~~sections 2530-A and 2531-A~~ section 2531-B apply equally to applicants for ~~either the inspection or~~ recount. Except as otherwise provided in this section, the method of conducting a referendum recount is governed by Title 21-A, section 737-A.

**Sec. 9. 30-A MRSA §2556**, as amended by PL 1993, c. 608, §16, is further amended to read:

**§2556. Recount; challenge for office**

Sections ~~2530-A~~ 2531-B to 2533 apply in a city and govern ~~ballot inspections,~~ recounts of elections for office, referenda and the procedure for challenging a person who claims title to an office.

**Sec. 10. 30-A MRSA §5404, sub-§1, ¶A**, as amended by PL 1993, c. 608, §17, is further amended to read:

A. Revenue bonds of a town, as distinguished from a city, may not be issued until the general purpose for which the bonds are to be issued and the maximum principal amount of the bonds to be authorized have been approved by ballot by a majority of the votes cast on the question. The total number of votes cast must be equal to at least 20% of the total vote for all candidates for Governor cast in the municipality at the last gubernatorial election. The ballot submitted to the voters of a town to authorize the issuance of revenue bonds must state the general purpose for which the proposed bonds are to be issued and the maximum principal amount of the proposed bonds authorized to be issued. The voting at meetings held in towns must be held

and conducted in accordance with sections 2528 to ~~2531-A~~ 2531-B, even if the town has not accepted the provisions of section 2528.

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In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

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Approved ..... 2011

..... Governor