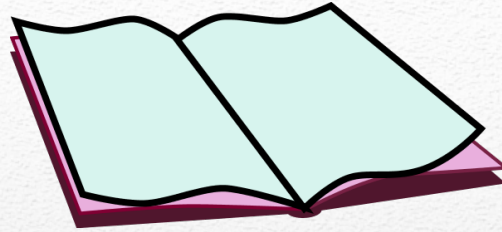


Town Meeting & Elections

Chapter 5

Voters' Petitions

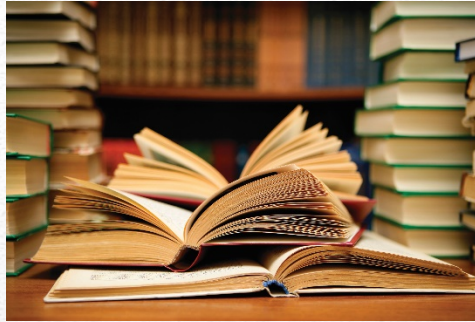




- Officials in municipalities with comprehensive charters that include provisions regarding the petition process should remember that those provisions take precedence to state laws.

effect of charter





- 30-A MRSA Section 2522 relates to petitions for warrant articles in open town meeting towns
- 30-A MRSA Section 2528(5) governs secret ballot referendum petitions

governing statutes



- Although there is no requirement that circulators be voters or residents of the town, they must be registered to vote somewhere in Maine.
- A circulator can post a petition on a wall or at the counter of a local business, since it is not required to have the signer sign in the presence of the circulator or to state that the signer has read the petition or signed only once.

obligations of petition circulators



PETITION

We, the undersigned patrons of the poker community, wish to express our deep concern with Howard Lederer playing poker in the Aria casino while currently under investigation by the Department of Justice and named as a co-conspirator in an amended civil indictment filed by the Department of Justice in the U.S. District Court in the Southern District of New York. We are particularly concerned with playing in the same poker room with someone who, according to the allegations in the above referenced amended-civil indictment, knowingly conspired to commit acts of fraud and money laundering with regards to Full Tilt online poker players money.

We believe the casino has a moral and ethical obligation to bar Howard Lederer from playing in the poker room and should Aria casino fail to take immediate action we, the poker playing community, will be forced to boycott the poker room in Aria casino.

NAME	SIGNATURE	ADDRESS	DATE

- Under 2522, a petition should be addressed to the municipal officers and request that the article be considered and should state the article, and preferably include it at the top of each signature page
- Under 2528, the petition should request a referendum vote by secret ballot

form of petition

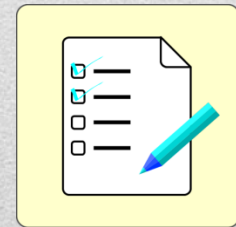


- “Validate” is a means to ensure that a petition bears a sufficient number of signatures of voters.
- If a petition does not contain at least the minimum required, the municipal officers may dismiss it without further consideration.

initial validation procedure



- The base for calculating the number of signatures required is the number of votes cast in the municipality in the last gubernatorial election, from the return of votes cast filed with the Secretary of State's office, which includes the votes for all gubernatorial candidates listed on the ballot and all write in votes (not blanks).
- If the number of valid signatures does not equal 10% of the base, or has less than 10 valid signatures, it is insufficient.
- If a petition contains a sufficient number of signatures, the validating official should certify that determination to the municipal officers



validation procedure



- Although not required by law, the municipal officers may choose to specify an additional period of time in which circulators will be allowed to gather and submit additional signatures to meet the minimum necessary.
- It is recommended that the municipal officers create a written statement of policy concerning petitions before extending the time period.

additional procedures where signatures insufficient



- 30-A MRSA Section 2522 does not specify how recent the signatures must have been collected before filing.
- If it is clear to the municipal officers that the signatures on a petition were collected a year or more ago, they can suggest that the circulators gather fresh signatures, or circulate another petition, since controversies on issues come and go.



staleness of signatures



- Before filing, a voter who has signed a petition may inquire of a municipal official whether they can withdraw their name. The voter should be directed to contact the petition circulator, since this is a matter between the circulator and the signer, since there is no law either allowing or prohibiting a signer to withdraw.
- After filing, a signer's signature should not be erased, deleted, stricken out, or otherwise obscured or altered, and no entry should be made indicating that the signature is withdrawn.

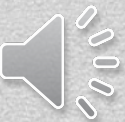
withdrawal of signatures from petition





- There is no law provision for withdrawal of a petition, or any portion of a petition, after it has been filed.
- Neither the petition or any portion of it can be returned to the circulator, since voters who have signed a petition have acquired some right to its consideration, which cannot be withdrawn or canceled by the circulators.

withdrawal of petition



- The municipal officers can reasonably refuse to place a petitioned article on a warrant where it would be beyond the powers of the voters to act upon, known as “ultra vires”
 - Where there is a petition to fill a vacancy, when the municipal officers have appropriately appointed someone to the position and they have been duly qualified and sworn, the municipal officers can refuse to act since there is no longer a vacancy to fill.
 - Where petitions sought enactment of a cable TV enabling ordinance, since the municipal officers have the exclusive authority to enact.
 - If petitions wished to establish or change a speed limit, since municipalities may not establish or change the speed limit on roads.

considering merits of petition by municipal officers



- Courts have upheld the refusal of a petition as reasonable where the petition requested an action that would be illegal, if passed.
 - If enacted, an ordinance would be invalid.
 - If the article wanted to grant a tax exemption not authorized by state law.
 - If the article allowed for public funds to be devoted to private purposes, such as authorizing snow removal on private roads.

considering merits of petition by municipal officers





- Once a contract has been signed, or bonds have been sold, pursuant to a town meeting vote, it is too late for that vote to be reconsidered or rescinded.
- A 1990 Superior Court Case held that it is not unreasonable for the municipal officers to refuse to put an issue to a second referendum.

petition to reconsider after formal adjournment





- It may be reasonable to refuse to honor a petition where the article is incomplete, ambiguous, or otherwise unintelligible to a reasonable reader.

unintelligible petition



- A petition that has been signed by the minimum number of voters should be allowed, even if:
 - It is not addressed to the municipal officers, but simply asks to call a town meeting to consider an issue
 - The petition is delivered to the clerk, although it is addressed to the municipal officers
 - The petition includes more than one article, even if unrelated topics
 - The petition includes some articles that appear proper and some that are clearly illegal, it is unreasonable to refuse the entire petition.

technical deficiencies and objections





- The municipal officers set the date and time of annual and special meetings.
- If a petition has requested a specific date or deadline for action, the municipal officers can try to comply, but can decide not to do so as long as their decision is reasonable.

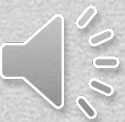
putting issue to vote





- 30-A Section 2522 says that the municipal officers shall either insert a particular article in the next warrant issued or shall within 60 days call a special town meeting for its consideration.

timeline for action on open town meeting petitions



- 30-A MRSA Section 2528 says that the municipal officers shall have a particular article placed on the next ballot printed or shall call a special town meeting for its consideration.
- As with referenda called by order of the municipal officers, a petition for secret ballot referendum must be submitted at least 60 days prior to the election, to allow time for the clerk to finalize ballots for absentee voting.
- Petitioned articles must go before a public hearing which must be held at least 10 days prior to the election, with public notice given at least 7 days before the public hearing (just like the articles placed on the ballot by the municipal officers).

timeline for action on secret ballot referendum petitions



- The municipal officers can delay in taking an issue to the voters if the issue is not pressing, or the petitioner's interests will not be destroyed.
- Reasonable considerations for delay include that voter turnout will be higher if the issue is presented at a later meeting, or the annual meeting, or that the cost for a special meeting for one issue is excessive.

concept of reasonable delay



- If a petition in a secret ballot town specifically requests a secret ballot vote, or if their intent can be inferred from the fact that such a petition is filed at least 60 days before a known election, it should be treated that way.
- If a petition in a secret ballot town asks for a ‘written ballot’, but does not cite Section 2528, it can be treated as a petition for an open town meeting vote, and the voters can choose whether to vote by written ballot.
- If a petition in a secret ballot town is silent on the point, and no inference can be made, then the municipal officers have the discretion to either vote it at open town meeting or by secret ballot referendum.
- If a petition in a town that has never accepted the secret ballot method of voting requests a secret ballot vote, and it is not a topic that requires a secret ballot vote, then the municipal officers can only call an open town meeting, and the voters can choose whether to vote by written ballot.

manner of vote requested



EDITING MARKS

Amnesty International is a worldwide human rights organization. There are over 1,000,000 members in A.I. and more than three hundred thousand of them live in the USA.

Amnesty International finds out. The headquarters of A.I. in London sends this information all over the world to committed letter-writers.

Government officials receive hundreds of thousands of letters from ordinary people protesting the mistreatment of detainees. Governments do not like to be looked upon as cruel, barbaric and uncivilized, even when they are being cruel, barbaric, and uncivilized!

EDITING MARKS: ¶ (paragraph), spell, use figures, transpose, sp. (spelling), no paragraph, flush left, → (lower case), indent, erase, boldface.

- The municipal officers have no authority to change the language of the petitioned article, even with the consent of the circulator's of the petition. Even correction of obvious grammar errors or misspellings are not allowed; the article should be printed exactly as it was written when filed with the clerk.
- If the article will be voted on at open town meeting, the municipal officers can place a second, corrected article before the problematic article, also with an explanation of the origin of each and the recommendation of the municipal officers.

incorrectly worded petitioned article – use of alternative article





- If the municipal officers unreasonably refuse to honor a petition, the petitioners can request a notary public to issue the warrant.
- The notary has no discretion not to issue a warrant calling the requested meeting and including the requested article or articles. The notary is not to hold a hearing or otherwise try to determine the reasonableness or unreasonableness of the municipal officers' refusal.

unreasonable refusal to honor petition





30-A MRSA Section 2521(3) provides that when an organized town or plantation is without selectmen, a notary public can call a meeting on the written petition of any three voters.

town or plantation without municipal officers



- How charters relate to state laws in the petition process
- Requirements for a petition circulator
- Who prepares the petition forms
- Withdrawal of petition signatures before and after filing
- When the municipal officers can refuse to place an article on a warrant

Knowledge check





- You have reached the end of Module 5 of the Town Meeting and Elections class.
- For specific questions on any topic in this module, please contact the legal department at Maine Municipal Association, your town's attorney, or a clerk mentor.
- Please print this final page as proof of completion of this module.
- You may submit the final page to MMA along with the other eleven modules' completion pages to obtain a certificate to be used for certification points.

thank you

