Office of
The Governor

No. 56 FY 19/20
DATE June 3, 2020

AN ORDER TO FURTHER FACILITATE THE STATE PRIMARY AND LOCAL ELECTIONS WITHIN PUBLIC HEALTH RESTRICTIONS DUE TO COVID-19

WHEREAS, I proclaimed a state of emergency on March 15, 2020 and a renewed state of emergency on April 14, 2020 and on May 13, 2020 to authorize the use of emergency powers in order to expand and expedite the State's response to the serious health and safety risks of the highly contagious COVID-19; and

WHEREAS, An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency, enacted on an emergency basis and effective upon the Governor's signature on March 18, 2020, authorizes the Governor to take any reasonable administrative actions necessary with respect to the elections originally scheduled for June 9, 2020 to facilitate voting by all residents registered to vote in this State in a manner that preserves and protects public health in response to COVID-19; and

WHEREAS, in Executive Order 39 FY 19/20 ("Executive Order 39") I postponed Maine's primary election to July 14, 2020 due to the risk that voters, poll workers and election officials would be exposed to COVID-19, which is highly contagious and presents a serious risk to life and health; and

WHEREAS, the provisions of Executive Order 39 continue to be in effect but require supplementation in order to address local government and school entities, as well as certain additional general election procedures, preserving the fundamental right of the citizenry to debate and vote on budgets and public policy matters, while limiting large public gatherings in order to protect public health and safety; and

WHEREAS, the governor's emergency powers expressly include the authorities to adjust time frames and deadlines imposed by law, 37-B M.R.S. §742(1)(C)(13)(a), and to suspend the enforcement of a statute prescribing the procedures for conduct of state business pursuant to 37-B M.R.S. §742(1)(C)(1) and §834;

NOW, THEREFORE, I, Janet T. Mills, Governor of the State of Maine, pursuant to 37-B M.R.S. Ch. 13, and P.L. 2019, c. 617, including but not limited to the provisions cited above, do hereby Order as follows:

I. ORDERS

A. As the statewide election (both primary and referendum elections) will be held on July 14, 2020 instead of in June 2020 in accordance with Executive Order 39 FY 20/21, the language in PL 2019, c. 673, sections A-9 and B-10 that provides, "This Part must be submitted to the legal voters of the State at a statewide election held in June 2020," is modified by substituting "July 2020" for "June 2020" to permit the people of the State of Maine to vote on the ratification of bonds.

B. A town meeting, budget hearing or public hearing on county estimates may be conducted within the current 50 person gathering limitation in a manner so as to preserve the right to debate and the right to vote, but also protecting the public health by preserving social distancing and restricting shared microphones, restrooms, seating and observing any other guidance prescribed by the Maine Center for Disease Control ("MECDC").

Alternatively, if such a meeting or hearing cannot be held within MECDC guidance, municipal officers or local officials authorized to call open town meetings, open budget meetings or budget hearings may conduct referenda and/or secret ballot elections, including a secret ballot referendum, on July 14 or such other date in calendar year 2020 as the officials may determine, provided that they follow guidance developed by the Secretary of State in consultation with the MECDC. This guidance shall address physical distancing, sanitation and other requirements deemed necessary to provide appropriate protection to voters, clerks, poll workers, and others who may be present in and outside the polling place.

C. Title 30-A M.R.S. § 2528(1) is suspended to allow the municipal officers of a municipality that has not voted to accept secret ballot voting to nevertheless do so during the state of emergency. Elected officials in those municipalities may remain in office until an election is called pursuant to 30-A MRS § 2525.

D. The deadline in 21-A M.R.S. §121-A requiring that voter registration applications submitted by mail or by a third person must be received by the close of business on the 21st day before election day is suspended and modified to allow such applications to be received by mail or by third person through close of business on July 7, 2020.

E. The requirement in 21-A M.R.S. § 631-A(2) that a public hearing be held at least 90 days prior to an election in order to consolidate polling places is suspended and modified to require such a hearing to be held at least 15 days prior to the election and to be held within MECDC guidelines for gatherings of up to 50 people, or to

be held remotely pursuant to 1 M.R.S. § 403-A, or by an opportunity for comment by email or mail. The requirement in 21-A M.R.S. § 631-A(3) that application must be made to the Secretary of State for approval to change polling places 60 days prior to an election absent an emergency is suspended and modified to authorize submission of such an application up to 10 days prior to the election, preserving the opportunity for a later application due to an emergency situation. The voting place report required to be filed by the clerk under 21-A M.R.S. § 626-A may also be filed with the Secretary of State up to 10 days prior to the election.

F. The requirement in 21-A M.R.S. § 753-B(5) that the municipal clerks facilitate absentee balloting through personal visits to certain licensed facilities is suspended, such balloting to be conducted in accordance with guidance from the Secretary of State in consultation with municipal clerks, the Department of Health and Human Services and Maine Center for Disease Control, so as to maximize voter participation, while reducing personal contact and protecting the health and safety of voters and municipal staff.

G. The requirement of 60 days' notice to be given by a municipality of its intent to process absentee ballots prior to election day pursuant to 21-A M.R.S. § 760-B(2) is suspended and modified to require 21 days' notice.

H. The provisions in 30-A M.R.S. § 2528(4) and (5) that municipal officers file with the clerk the order establishing the wording of any referendum question by the 60th day before the election is suspended and modified to provide for such filing by the 30th day before the election.

I. For school budget year 2020/2021 only, voter approval of the school budget may be by referendum vote, notwithstanding any statute to the contrary.

J. Any statute requiring a public hearing or public meeting in advance of a town meeting, school budget meeting, municipal referendum vote or a referendum on a school budget shall be suspended, provided that an opportunity for public comment is afforded by:

1. A hearing conducted within MECDC guidelines for gatherings of up to 50 people;

2. A hearing conducted in accordance with the remote participation requirements of 1 M.R.S. § 403-A;

3. Provision of the statutorily required information at a time and in such a manner as is sufficient to reach voters, together with an opportunity for written comment; or

4. Any combination of the above reasonably intended to maximize both public participation and public health and safety.

K. A municipal clerk may provide a secure drop box for the return of absentee ballots until 8:00 p.m. on election day in accordance with guidance provided by the Secretary of State.

L. Solely to the extent that 30-A M.R.S. § 5721-A(7)(A) requires a written ballot to exceed or increase the property tax levy limit at an open town meeting held in compliance with relevant gathering limits, it is suspended in favor of either a show of hands vote or a voice vote during the state of emergency.

M. The Secretary of State is authorized to issue appropriate guidance, to perform those tasks identified in this Order and as provided in 21-A M.R.S. § 663 (first sentence), and those necessary to facilitate municipal elections and school budget voting during this state of emergency to carry out the intent of this Order.

II. EFFECTIVE DATE

This Order shall take effect on June 3, 2020.

Janet T. Mills
Governor