Office of
The Governor

No. 8 FY 20/21
DATE August 26, 2020

AN ORDER TO FACILITATE THE NOVEMBER 2020 GENERAL ELECTION, TO ENSURE THE INTEGRITY OF THE BALLOT AND TO PROTECT THE PUBLIC HEALTH DURING THE COVID-19 EMERGENCY

WHEREAS, I proclaimed a state of emergency on March 15, 2020 and a renewed state of emergency on April 14, 2020, May 13, 2020, June 10, 2020, July 8, 2020, and August 5, 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, in Executive Order 39 FY 19/20 ("Executive Order 39") I postponed Maine's primary election from June 9, 2020, to July 14, 2020, and in Executive Order 56 FY 19/20 ("Executive Order 56"), issued on June 3, 2020, I entered orders to further reduce the risk that voters, poll workers and election officials participating in the state primary and in municipal and school district elections would be exposed to COVID-19, which is highly contagious and presents a serious risk to life and health; and

WHEREAS, having consulted with state and local election officials about their experience during the primary election, and having obtained the expert advice of Maine DHHS and CDC concerning health and safety measures appropriate to mitigate the COVID-19 related risks arising from the large numbers of Mainers expected to vote in the November 3, 2020, State General Election, and

WHEREAS, a governor's emergency powers pursuant to 37-B M.R.S. §742(l)(C)(l)&(13)(a) and §834 expressly include the authority to suspend the enforcement of statutes, orders or rules where strict compliance therewith would in any way prevent, hinder or delay necessary action in coping with the emergency, and to adjust time frames and deadlines imposed by law;

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

I. ORDERS

Any provisions of Executive Order 39 FY 19/20 and Executive Order 56 FY 19/20 that are inconsistent with this order are superseded and repealed.

A. Polling places. In-person voting conducted by municipalities in the General Election on November 3 is subject to the following requirements:

1. The number of persons present inside a single polling place shall not exceed 50 or such lesser number as allows sufficient space to meet the six-foot physical distancing requirement between persons, as set forth in Executive Order 55 FY 19/20 and confirmed in Executive Order 6 FY 20/21.

2. The requirement in 21-A M.R.S. § 629(1)(A) that a municipality provide a minimum number of voting booths in each voting place for a general election based on the number of registered voters, with at least one voting booth for each 200 or fraction exceeding 1/2 of that number, is suspended to the extent that this requirement may result in voting booths that are fewer than six feet apart or crowded traffic flow that will make six foot distancing of individuals difficult.

3. Voter lines outside the polling place shall be marked with signage and ground lines designed to enforce a six-foot separation between voters; and

B. Voter registration. The deadline in 21-A M.R.S. § 121-A requiring that voter registration applications submitted by mail or by a 3rd 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 by the close of business on the 15th day before the election, October 19, 2020.

C. Consolidation or change of polling locations. 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 30 days prior to the election and to be held within MECDC guidelines for indoor 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 20 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 be filed with the Secretary of State up to 10 days prior to the election.

D. Election clerks. The requirement in 21-A M.R.S. § 503-A that election clerks must be residents of the municipality or county in which they serve is suspended to permit residents of an abutting Maine county to be appointed, provided that in selecting election clerks from the list of appointees the municipal clerk shall select all available appointees who are residents of the municipality or county before selecting those who are residents of an abutting county.

E. School budget elections.

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

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

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

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

    c. 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

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

F. Absentee ballots.

1. The limitation on processing absentee ballots up to four days prior to election day under 21-A M.R.S. § 760-B(1) is suspended and modified to permit such processing up to seven days prior to election. The 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 30 days' notice.

2. 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.

3. Voters may vote in person by absentee ballot without specifying a reason until 5:00 p.m. on the second business day before election day; that part of 21-A M.R.S. § 753-B(2)(D) to the contrary is suspended.

G. Secretary of State. The Secretary of State is authorized to issue appropriate guidance to implement this Order in consultation with the Maine Center for Disease Control, municipal and school budget officials to facilitate voting during this state of emergency and carry out the intent of this Order, including guidance for the provision and security of external drop boxes accessible only by the clerk for the safe return of absentee ballots in accordance with 21-A M.R.S. § 754-A.

II. EFFECTIVE DATE

This Order shall take effect on August 26, 2020, and, shall terminate 30 days after the termination of the COVID-19 state of emergency unless sooner amended, renewed, terminated or expanded in view of emerging circumstances that may affect the integrity of the November 3, 2020, elections or the health and safety of voters and election staff during the continuing pandemic.

Janet T. Mills
Governor