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House of Representatives, April 16, 2013

**An Act To Establish a Nonpartisan Primary and a Presidential
Primary Election System and Instant Run-off Voting for State and
Federal Candidates**

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RYKERSON of Kittery.
Cosponsored by Representative BEAVERS of South Berwick, Senator WOODBURY of
Cumberland and Representatives: BROOKS of Winterport, CASSIDY of Lubec, CHAPMAN
of Brooksville, CHENETTE of Saco, EVANGELOS of Friendship, FARNSWORTH of
Portland, McGOWAN of York, SCHNECK of Bangor.

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

2 **Sec. 1. 21-A MRSA §1, sub-§21-A** is enacted to read:

3 **21-A. Instant run-off voting method.** "Instant run-off voting method" means a
4 method of casting and tabulating votes that simulates the ballot counts that would occur if
5 all voters participated in a series of run-off elections and that allows voters to rank
6 candidates according to their preferences, as described in section 726.

7 **Sec. 2. 21-A MRSA §111, sub-§5,** as amended by PL 2005, c. 387, §1, is further
8 amended to read:

9 **5. Enrollment.** The person must be enrolled in a party in that municipality to vote at
10 that party's caucus, ~~or convention or primary election, unless otherwise permitted by the~~
11 ~~party pursuant to section 340.~~

12 **Sec. 3. 21-A MRSA §144, sub-§2,** as amended by PL 2005, c. 453, §27, is
13 further amended to read:

14 **2. Party designation removed.** On receipt of the application, the registrar shall
15 remove the party designation of the applicant from the central voter registration system.
16 The registrar shall indicate in the central voter registration system that the applicant is
17 ineligible to vote at a caucus ~~or primary election~~ for 15 days by designating the party
18 enrollment field with the letter "X." Fifteen days after receiving the application, the
19 registrar shall enroll the applicant in the party requested and enter the new party
20 designation in the party enrollment field.

21 This subsection does not apply in the case of a voter who changes enrollment under
22 subsection 4.

23 **Sec. 4. 21-A MRSA §144, sub-§3,** as amended by PL 1995, c. 459, §16, is
24 further amended to read:

25 **3. Restrictions during change of enrollment.** Except as provided in subsection 4, a
26 voter may not vote at a caucus, ~~or convention or primary election~~ for 15 days after filing
27 an application to change enrollment. ~~A voter must file an application to change~~
28 ~~enrollment prior to January 1st to be eligible to file a petition as a candidate in that~~
29 ~~election year.~~

30 **Sec. 5. 21-A MRSA §334,** as amended by PL 2009, c. 253, §16, is further
31 amended to read:

32 **§334. Qualification of candidate for primary nomination**

33 A candidate for nomination by primary election must file a primary petition and
34 consent under sections 335 and 336. The candidate must be enrolled, on or before March
35 15th, in the party named in the petition ~~and must be eligible to file a petition as a~~
36 ~~candidate for nomination by primary election under section 144, subsection 3.~~ The
37 registrar in the candidate's municipality of residence must certify to that fact on a form
38 designed by the Secretary of State.

1 election on the first Tuesday after the presidential primary election in New
2 Hampshire, unless that primary occurs in the preceding calendar year, in which case
3 the election must be held on the first Tuesday in March.

4 **§432. Party certification**

5 The state committee of a party shall file the certification described in section 431,
6 subsection 1 with the Secretary of State by December 1st of the year prior to the
7 presidential election year. This certification must contain the following:

8 **1. Statement of contest.** A statement that there is a contest among candidates for
9 nomination as the presidential candidate of the party;

10 **2. Identification of contestants.** Identification of at least 2 candidates who have
11 declared as contestants for nomination as the presidential candidate of the party; and

12 **3. Statement of committee vote.** A statement that the state committee has voted to
13 conduct a presidential primary election.

14 **§433. Petitions**

15 On or before July 1st of the year prior to a presidential election year, the Secretary of
16 State shall prepare and make available petitions for circulation by a person desiring to be
17 a contestant in the Maine presidential primary election of any party. This petition must
18 be completed and filed at least 45 days before the primary election in the manner
19 provided in sections 335 and 336.

20 **§434. Ballot preparation; candidate eligibility**

21 The Secretary of State shall prepare ballots for a presidential primary election under
22 this subchapter in accordance with section 601-B.

23 **1. Petitions.** A ballot must include the name of a person who files with the Secretary
24 of State a petition in accordance with section 433. The Secretary of State shall determine
25 if a petition meets the requirements of sections 335, 336 and 433, subject to challenge and
26 appeal under section 337.

27 **2. Secretary of State determination.** The following provisions govern the
28 Secretary of State's selection of presidential candidates to appear on the ballot.

29 A. A ballot must include the name of a person who is a member of a party that has
30 qualified under subchapter 1 and who has been determined by the Secretary of State,
31 in the Secretary of State's sole discretion, to be generally advocated or recognized as
32 a presidential candidate of nationwide stature in the national news media throughout
33 the United States. This subsection may not be construed to include so-called favorite
34 son candidates whose candidacy may be limited to one state.

35 B. The Secretary of State shall determine which candidates will be placed on the
36 ballot under this subsection at least 30 days before the ballots are prepared. The
37 Secretary of State shall promptly notify a person that the person's name will appear

1 on the ballot and advise that person of the steps under paragraph C that the person
2 must take if the person does not wish to appear on the ballot.

3 C. A person who the Secretary of State determines should be placed on the ballot
4 under this subsection may have the person's name withdrawn from the ballot by filing
5 an affidavit with the Secretary of State in which the person swears an oath that the
6 person requests that the person's name be withdrawn from the ballot.

7 In order for the person's name to be withdrawn from the ballot, the affidavit must be
8 received by the Secretary of State at least 45 days before the date designated for the
9 presidential primary election.

10 **§435. Selection of delegates**

11 If a party chooses to participate in a presidential primary election under this
12 subchapter, delegates to national presidential nominating conventions may be selected by
13 the party meeting in convention under subchapter 1, article 3 at any time after the
14 presidential primary election.

15 Selection of delegates must be in accordance with any reasonable procedures
16 established at the state party convention. In the absence of any procedures established by
17 state or national party rules, the allocation of delegates must be as follows.

18 **1. Proportional allocation.** Delegates to the national convention must be allocated
19 in proportion with the candidate votes and the uncommitted votes cast in the presidential
20 primary election of the party.

21 A. A candidate receiving 10% or more of the total vote, including candidate votes
22 and uncommitted votes, is allocated a share of delegates that approaches, as closely
23 as possible, the candidate's respective share of the total vote.

24 B. The percentages of votes attributable to candidates receiving less than 10% of the
25 total vote, including candidate votes and uncommitted votes, must be added to the
26 total percentage of uncommitted votes for the purpose of allocating delegates.

27 **2. Uncommitted delegates.** A delegate selected as an uncommitted delegate may
28 support any presidential candidate at any time and may change support for this candidate
29 in the delegate's sole discretion.

30 **3. Committed delegates.** A delegate selected for a particular presidential candidate
31 according to the proportional allocation specified by this section shall vote for that
32 candidate on the first ballot at the national presidential nominating convention, unless the
33 state committee of the party affirmatively votes to follow another procedure or the
34 candidate for whom a particular delegate is selected specifically withdraws, as verified by
35 the chair of the national party, from consideration for the presidential nomination at any
36 time before the first ballot at the national presidential nominating convention.

37 **§436. Cost borne by State**

38 Whenever a municipality complies with the provisions of this subchapter, the State
39 shall bear the cost incurred.

1 **Sec. 11. 21-A MRSA §601-B** is enacted to read:

2 **§601-B. Presidential primary ballot**

3 The Secretary of State shall prepare presidential primary election ballots in
4 accordance with section 434 and the following provisions.

5 **1. Arrangement.** The ballot must be arranged in a manner that is as consistent and
6 uniform as possible throughout the State.

7 **2. Content.** The ballot must contain the items listed in this subsection.

8 A. Instructions must be printed in bold type at the top of the ballot informing the
9 voter how to designate the voter's choice on the ballot.

10 B. The ballot must contain the name, without any title, and place of residence of each
11 candidate, arranged alphabetically with the last name first in block capital letters,
12 followed by the first name and middle name or initial, or followed by the first name
13 or first initial and the middle name. The name of each candidate may be printed on
14 the ballot in only one space.

15 C. There must be a place on the ballot for the voter to designate the voter's choice.

16 D. There must be a heading on the ballot that contains the title of the election, the
17 name of the party, the name of the voting district or districts for which the ballot was
18 prepared, the date of the election and a facsimile of the state seal.

19 E. At the end of the list of candidates for nomination, there must be printed the word
20 "uncommitted" in such a way that a voter may choose this preference rather than a
21 listed candidate.

22 F. At the end of the list of candidates for nomination and after the "uncommitted"
23 option, there may not be any blank spaces left where a voter could write in the name
24 or place a sticker containing the name of any person for whom the voter desires to
25 vote.

26 G. The ballot must be simple and easy to understand and allow a voter to rank
27 candidates in order of choice. If feasible, ballots must be designed so that a voter
28 may mark that voter's first choice in the same manner as that for offices not elected
29 by the instant run-off voting method.

30 **Sec. 12. 21-A MRSA §603, sub-§1, ¶C** is enacted to read:

31 C. The ballot must illustrate the voting procedure for the instant run-off voting
32 method, if applicable.

33 **Sec. 13. 21-A MRSA §603, sub-§7** is enacted to read:

34 **7. Include with absentee ballot.** A clerk shall provide a sample ballot with each
35 absentee ballot.

36 **Sec. 14. 21-A MRSA §625**, as amended by PL 2009, c. 538, §7, is further
37 amended by adding at the end a new paragraph to read:

1 The clerk shall post a sample ballot in or near each voting booth on election day.

2 **Sec. 15. 21-A MRSA §673, sub-§1, ¶A**, as corrected by RR 2011, c. 2, §21, is
3 amended to read:

4 A. A voter or an election official may challenge another voter only upon personal
5 knowledge or a reasonably supported belief that the challenged voter is unqualified.
6 Only the following reasons for challenges may be accepted by the warden. The
7 challenged person:

- 8 ~~(2) Is not enrolled in the proper party, if voting in a primary election;~~
9 (3) Is not qualified to be a registered voter because the challenged person:
10 (a) Does not meet the age requirements as specified in section 111,
11 subsection 2 and section 111-A;
12 (b) Is not a citizen of the United States; or
13 (c) Is not a resident of the municipality or appropriate electoral district
14 within the municipality;
15 (4) Registered to vote during the closed period or on election day and did not
16 provide satisfactory proof of identity and residency to the registrar pursuant to
17 section 121, subsection 1-A, except that only an election official may challenge
18 for this reason;
19 (5) Did not properly apply for an absentee ballot;
20 (6) Did not properly complete the affidavit on the absentee return envelope;
21 (7) Did not cast the ballot or complete the affidavit before the appropriate
22 witness;
23 (8) Communicated with someone as prohibited by section 754-A, subsection 1,
24 paragraph B or subsection 3, paragraph B or D;
25 (9) Did not have the ballot returned to the clerk by the time prescribed;
26 (10) Voted using the name of another;
27 (11) Committed any other specified violation of this Title; or
28 (12) Voted using the wrong ballot for the appropriate electoral district ~~or~~
29 ~~political party, if applicable.~~

30 **Sec. 16. 21-A MRSA §722, sub-§1**, as amended by PL 2009, c. 253, §36, is
31 further amended to read:

32 **1. How tabulated.** The Secretary of State shall tabulate all votes that appear by an
33 election return to have been cast for each question or candidate whose name appeared on
34 the ballot. The Secretary of State shall tabulate the votes ~~that appear by an election return~~
35 ~~to have been cast for a declared write in candidate and shall tabulate the votes that appear~~
36 ~~to have been cast for an undeclared write in candidate based on a recount requested and~~
37 ~~conducted pursuant to section 737 A, subsection 2-A~~ according to the instant run-off
38 voting method described in section 726.

1 **Sec. 17. 21-A MRSA §723, sub-§2**, as amended by PL 2009, c. 253, §39, is
2 repealed and the following enacted in its place:

3 **2. Other elections.** In any other election, the person who is determined to be the
4 winner under the instant run-off voting method described in section 726 is elected to that
5 office.

6 **Sec. 18. 21-A MRSA §726** is enacted to read:

7 **§726. Instant run-off voting method**

8 Elections for the offices of President of the United States, United States Senator,
9 Representative to Congress, Governor, State Senator and State Representative must be
10 conducted according to an instant run-off voting method as follows.

11 **1. Instructions.** Instructions on the ballot must conform substantially to the
12 following specifications, subject to modification based on ballot design and voting
13 machine:

14 "Vote for candidates by indicating your first-choice candidate and ranking additional
15 candidates in order of preference. Indicate your first choice by marking the number "1"
16 beside a candidate's name, your 2nd choice by marking the number "2" beside a
17 candidate's name, your 3rd choice by marking the number "3" beside a candidate's name
18 and so on, for as many choices as you wish. You may choose to rank only one candidate,
19 but ranking additional candidates will not help defeat your first-choice candidate. Do not
20 mark the same number beside more than one candidate. Do not skip numbers."

21 **2. Procedures.** The following procedures are used to determine the winner in an
22 election subject to this section.

23 A. The first choice marked on each ballot must be counted initially by the election
24 officials. The ballot count is the same as the count that would occur if voters
25 participated in a series of run-off elections, with the candidate with the fewest votes
26 eliminated after each round of counting.

27 B. In every round of counting, each ballot is counted as one vote for that ballot's
28 highest-ranked advancing candidate. For the purposes of this paragraph, "advancing
29 candidate" means a candidate who has not been eliminated. If more than 2 candidates
30 have received votes after the initial round of counting, the Secretary of State shall
31 conduct an instant run-off round. In this instant run-off round, the Secretary of State
32 shall eliminate the candidate with the fewest votes. A ballot that ranks this
33 eliminated candidate as the highest-ranked candidate must be counted as a vote for
34 the highest-ranked advancing candidate on that ballot. This process of counting votes
35 and eliminating the candidate with the fewest votes must continue until 2 candidates
36 remain. The candidate with the most votes must be declared the winner.

37 C. If a ballot has no more available choices ranked on it, that ballot must be declared
38 exhausted. A ballot that skips one number must be counted for that voter's next
39 clearly indicated choice, but a ballot that skips more than one number must be
40 declared exhausted when this skipping of numbers is reached. A ballot with the same

1 number for 2 or more candidates must be declared exhausted when these double
2 numbers are reached.

3 D. For ties between candidates occurring at any stage in the tabulation,
4 determinations must be made based on whomever was credited with the most votes at
5 the previous stage of tabulation. In the case of any tie to which a previous stage does
6 not apply, the tie must be resolved in accordance with the general election laws of the
7 State.

8 **3. Change of voting method.** The legislative body of a municipality or election
9 authorities may provide for the use of mechanical, electronic or other devices for
10 marking, sorting and counting the ballots and tabulating the results and may modify the
11 form of the ballots, the directions to voters and the details with respect to the method of
12 marking, sorting, counting, invalidating and retaining ballots and the tabulating and
13 recounting of votes, as long as no change is made that alters the intent or principles
14 embodied in this section.

15 **4. Modification of instant run-off voting method ballot and count.** Modification
16 of an instant run-off voting method ballot and count is permitted in accordance with this
17 subsection.

18 A. If the Secretary of State determines that the number of candidates exceeds the
19 practical space requirements for ranking all candidates on the ballot, the number of
20 allowable rankings may be limited to no fewer than 5 candidates.

21 B. Two or more candidates may be eliminated simultaneously if the number of total
22 votes credited for those candidates is fewer than the number of total votes credited for
23 the candidate with the next greatest number of votes.

24 **5. Effect on rights of political parties.** For all statutory and constitutional
25 provisions in the State pertaining to the rights of political parties, the number of votes cast
26 for a party's candidate is the number of votes credited to that candidate after the initial
27 round of counting.

28 **Sec. 19. 21-A MRSA §759, sub-§2,** as amended by PL 2007, c. 455, §42, is
29 further amended to read:

30 **2. Accepted if correct.** If the warden finds that the affidavit is properly completed,
31 that the clerk has verified that the signature on the envelope matches the signature on the
32 application where applicable; and that the person is registered ~~and enrolled where~~
33 ~~necessary,~~ the warden shall then examine the incoming voting list to determine whether
34 the voter voted in person at the election. The warden shall then announce the name of
35 each absentee voter who has not voted at the election and remove each ballot from its
36 envelope without destroying the envelope or unfolding the ballot. After having an
37 election clerk from a political party different from that of the warden mark the letters
38 "AV" beside the name of each absentee voter on the incoming voting lists and place a
39 check mark or horizontal line in red ink on the list beside the voter's name, the warden
40 shall accept the ballot.

1 advancing candidate is a candidate who has not been eliminated. This process of
2 counting votes and eliminating the candidate with the fewest votes continues until 2
3 candidates remain. The candidate with the most votes is declared the winner.

4 The bill also removes the requirement that a voter must file an application to change
5 party enrollment prior to January 1st to be eligible to file a petition as a candidate in that
6 election year.