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No. 1882

S.P. 659

In Senate, March 15, 2012

An Act To Establish a Presidential Primary in the State

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by President RAYE of Washington.
Cosponsored by Speaker NUTTING of Oakland and
Senator: COURTNEY of York, Representatives: BEAULIEU of Auburn, CAIN of Orono,
CAREY of Lewiston, CURTIS of Madison.

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

2 **Sec. 1. 21-A MRSA §335, sub-§5, ¶B-2** is enacted to read:

3 B-2. For a candidate for the office of President of the United States, at least 2,000
4 and not more than 3,000 voters;

5 **Sec. 2. 21-A MRSA §335, sub-§6**, as enacted by PL 1985, c. 161, §6, is amended
6 to read:

7 **6. When signed.**~~A~~ Except as provided in subchapter 7, a petition may not be signed
8 before January 1st of the election year in which it is to be used.

9 **Sec. 3. 21-A MRSA §335, sub-§8**, as amended by PL 1995, c. 459, §23, is
10 further amended to read:

11 **8. When filed.**~~A~~ Except as provided in subchapter 7, a primary petition must be
12 filed in the office of the Secretary of State before 5 p.m. on March 15th of the election
13 year in which it is to be used.

14 **Sec. 4. 21-A MRSA c. 5, sub-c. 7** is enacted to read:

15 **SUBCHAPTER 7**

16 **PRESIDENTIAL PRIMARY ELECTIONS**

17 **§431. Determination and date of primary; voter eligibility**

18 **1. Determination of primary.** Whenever the state committee of a party certifies
19 that there is a contest among candidates for nomination as the presidential candidate of
20 the party and that the committee has voted to conduct a presidential primary election, the
21 State shall hold a presidential primary election.

22 **2. Date of primary.** A presidential primary election held pursuant to subsection 1
23 may not be held earlier than January 1st of the year in which the presidential election is
24 held. The date of the presidential primary election must be chosen in the following
25 manner.

26 A. If certification is made pursuant to subsection 1 for only one party and that party
27 chooses a date for the presidential primary election, the State shall hold the election
28 on that date. The party shall deliver to the Secretary of State notification of the
29 chosen date by December 1st of the year prior to the presidential election year.

30 B. If certification is made pursuant to subsection 1 for more than one party and those
31 parties agree by November 1st of the year prior to the presidential election year to
32 one date, the State shall hold the presidential primary election on that agreed-upon
33 date.

34 C. If a party does not choose a date pursuant to paragraph A or there is no agreement
35 on a date pursuant to paragraph B, the State shall hold the presidential primary

1 election on the first Tuesday in March or the first Tuesday after the presidential
2 primary election in New Hampshire, whichever is earlier, as long as the election is
3 held in the presidential election year. The date for the presidential primary election
4 may not be earlier than the presidential primary election in New Hampshire.

5 **3. Eligible voter.** Notwithstanding section 340, subsection 1, only a voter who is
6 enrolled in a party may vote in the party's presidential primary election.

7 **§432. Party certification**

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

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

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

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

17 **§433. Petitions**

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

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

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

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

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

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

1 B. The Secretary of State shall determine which candidates will be placed on the
2 ballot under this subsection at least 30 days before the ballots are prepared. The
3 Secretary of State shall promptly notify a person that the person's name will appear
4 on the ballot and advise that person of the steps under paragraph C that the person
5 must take if the person does not wish to appear on the ballot.

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

10 In order to withdraw a person's name from the ballot, the affidavit must be received
11 by the Secretary of State at least 45 days before the date designated for the
12 presidential primary election.

13 **§435. Selection of delegates**

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

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

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

24 A. A candidate receiving 10% or more of the total votes for candidates or
25 uncommitted is allocated a share of delegates that approaches, as closely as possible,
26 the respective share of the total vote.

27 B. The percentages of votes attributable to candidates receiving less than 10% of the
28 total vote must be added to the total percentage of uncommitted votes for the purpose
29 of allocating delegates.

30 **2. Uncommitted delegates.** A delegate elected as an uncommitted delegate may
31 support any presidential candidate at any time and may change support for this candidate
32 in the delegate's sole discretion.

33 **3. Committed delegates.** A delegate elected for a particular presidential candidate
34 according to the proportional allocation specified by this section shall vote for that
35 candidate on the first ballot at the national presidential nominating convention, unless the
36 state committee of the party affirmatively votes to follow another procedure or, prior to
37 the filing of the certification under section 431, subsection 1, the candidate for whom a
38 particular delegate is elected specifically withdraws, as verified by the chair of the
39 national party, from consideration for the presidential nomination at any time before the
40 first ballot at the national presidential nominating convention.

1 **§436. Cost**

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

4 **§437. Effective date**

5 This subchapter takes effect July 1, 2013.

6 **Sec. 5. 21-A MRSA §601-B** is enacted to read:

7 **§601-B. Presidential primary ballot**

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

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

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

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

15 B. The ballot must contain the name, without any title, and place of residence of each
16 candidate, arranged alphabetically with the last name first in block capital letters,
17 followed by the first name and middle name or initial, or followed by the first name
18 or first initial and the middle name. The name of each candidate may be printed on
19 the ballot in only one space.

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

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

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

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

31 **3. Distinctively colored.** The ballots must be printed separately for each party on
32 paper of a distinctive color, using white for the party that cast the greatest number of
33 votes for Governor at the last gubernatorial election and yellow for the party that cast the
34 2nd highest. The Secretary of State shall choose a distinctive color for ballots for any
35 other party.

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SUMMARY

This bill amends the presidential nomination process in the State. The bill provides that, whenever the state committee of a party certifies that there is a contest among candidates for nomination as the presidential candidate of the party and that the committee has voted to conduct a presidential primary election, the State shall hold a presidential primary election. Under the bill, only voters who are enrolled in the party may vote in that party's presidential primary election. Under the bill, delegates to the national convention must be allocated in proportion with the candidate votes and the uncommitted votes cast in the presidential primary election of the party.