

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 489

H. P. 382

House of Representatives, February 9, 1979

Referred to the Committee on State Government. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Tierney of Lisbon.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**RESOLUTION, Proposing an Amendment to the Constitution of Maine to Abolish
the Office of Secretary of State and to Create the Office of Lieutenant Governor.**

Constitutional amendment. RESOLVED: Two-thirds of each branch of the Legislature concurring, that the following amendments to the Constitution of this State be proposed:

Constitution, Art. II, § 1, first sentence, as amended by CR 1973, c. 3, is further amended to read:

Every citizen of the United States of the age of eighteen years and upwards, excepting persons under guardianship for reasons of mental illness, having his or her residence established in this State, shall be an elector for Governor, **Lieutenant Governor**, Senators and Representatives, in the city, town or plantation where his or her residence has been established, if he or she continues to reside in this State, unless barred by the provisions of the second paragraph of this section; and the elections shall be by written ballot.

Constitution, Art. II, § 4, first sentence, is amended to read:

The election of Senators and Representatives shall be on the Tuesday following the first Monday of November biennially forever and the election of Governor **and Lieutenant Governor** shall be on the Tuesday following the first Monday of November every four years.

Constitution, Art. IV, Pt. First, § 5, 3rd sentence is amended to read:

Fair copies of the lists of votes shall be attested by the municipal officers and the clerks of the cities and towns and the city and town clerks respectively shall cause the same to be delivered into the office of the ~~Secretary of State~~ **Lieutenant Governor** forthwith.

Constitution, Art. IV, Pt. 2nd, § 3, last sentence, as amended by CR 1977, c. 4, is further amended to read:

Fair copies of the lists of votes shall be attested by the clerks of the cities and towns or other duly authorized officials and sealed up in open meetings and such officials shall cause said lists to be delivered into the office of the ~~Secretary of State~~ **Lieutenant Governor** forthwith.

Constitution, Art. IV, Pt. 3rd, § 17, first sentence, as amended by CR 1975, c. 2, is further amended to read:

Upon written petition of electors, the number of which shall not be less than ten percent of the total vote for Governor cast in the last gubernatorial election preceding the filing of such petition, and addressed to the Governor and filed in the office of the ~~Secretary of State~~ **Lieutenant Governor** by the hour of five o'clock, p.m., on the ninetieth day after the recess of the Legislature, or if such ninetieth day is a Saturday, a Sunday, or a legal holiday, by the hour of five o'clock, p.m., on the preceding day which is not a Saturday, a Sunday, or a legal holiday, requesting that one or more Acts, bills, resolves, or resolutions, or part or parts thereof, passed by the Legislature, but not then in effect by reason of the provisions of the preceding section, be referred to the people, such Acts, bills, resolves, or resolutions or part or parts thereof as are specified in such petition shall not take effect until thirty days after the Governor shall have announced by public proclamation that the same have been ratified by a majority of the electors voting thereon at a general or special election.

Constitution, Art. IV, Pt. 3rd, § 17, last sentence, as enacted by CR 1975, c. 2, is amended to read:

If the Governor is requested in the written petition to order such measure to be submitted to the people at a special election and if he fails to do so in the public proclamation giving notice that the effect of an Act, bill, resolve or resolution or part or parts thereof has been suspended by petition, the ~~Secretary of State~~ **Lieutenant Governor** shall, by proclamation, order such measure to be submitted to the people at a special election as requested, and such order shall be sufficient to enable the people to vote.

Constitution, Art. IV, Pt. 3rd, § 18, first sentence, as amended by CR 1975, c. 2, is further amended to read:

The electors may propose to the Legislature for its consideration any bill, resolve or resolution, including bills to amend or repeal emergency legislation but not an amendment of the State Constitution, by written petition addressed to the

Legislature or to either branch thereof and filed in the office of the ~~Secretary of State~~ **Lieutenant Governor** by the hour of five o'clock, p.m., on the fiftieth day after the date of convening of the Legislature in regular session.

Constitution, Art. IV, Pt. 3rd, § 18, last sentence, as enacted by PL 1975, c. 2, is amended to read:

If the Governor is requested in the written petition to order a measure proposed to the Legislature and not enacted without change to be submitted to the people at such a special election and if he fails to do so by proclamation within ten days after the recess of the Legislature to which the measure was proposed, the ~~Secretary of State~~ **Lieutenant Governor** shall, by proclamation, order such measure to be submitted to the people at a special election as requested, and such order shall be sufficient to enable the people to vote.

Constitution, Art. IV, Pt. 3rd, § 20, 3rd, 4th and 7th sentences, as enacted by CR 1975, c. 2, are amended to read:

Written petitions for a referendum pursuant to Article IV, Part 3, Section 17 must be submitted to the appropriate officials of cities, towns or plantations for determination of whether the petitioners are qualified voters by the hour of five o'clock, p.m., on the fifth day before the petition must be filed in the office of the ~~Secretary of State~~ **Lieutenant Governor**, or, if such fifth day is a Saturday, a Sunday or a legal holiday, by five o'clock, p.m., on the next day which is not a Saturday, a Sunday or a legal holiday. Written petitions for an initiative pursuant to Article IV, Part 3, Section 17 must be submitted to the appropriate officials of cities, towns or plantations for determination of whether the petitioners are qualified voters by the hour of five o'clock, p.m., on the third day before the petition must be filed in the office of the ~~Secretary of State~~ **Lieutenant Governor**, or, if such third day is a legal holiday, by five o'clock, p.m., on the next day which is not a legal holiday.

Petition forms shall be furnished or approved by the ~~Secretary of State~~ **Lieutenant Governor** upon written application signed in the office of the ~~Secretary of State~~ **Lieutenant Governor** by a resident of this State whose name must appear on the voting list of his city, town or plantation as qualified to vote for Governor.

Constitution, Art. IV, Pt. 3rd, § 20, last sentence is amended to read:

The full text of a measure submitted to a vote of the people under the provisions of the Constitution need not be printed on the official ballots, but, until otherwise provided by the Legislature, the ~~Secretary of State~~ **Lieutenant Governor** shall prepare the ballots in such form as to present the question or questions concisely and intelligibly.

Constitution, Art. IV, Pt. 3rd, § 22, last sentence, as enacted by CR 1975, c. 2, is amended to read:

Such laws shall include provision for judicial review of any determination, to be completed within one hundred days from the date of filing of a written petition in

the office of the ~~Secretary of State~~ **Lieutenant Governor**.

Constitution, Art. V, Pt. First, § 2, as amended by CR 1975, c. 5, is further amended to read:

Section 2. Term of office; reelection eligibility. The Governor shall be elected by the qualified electors, and shall hold his office for four years from the first Wednesday after the first Tuesday of January next following the election and until his successor has been duly elected and qualified; **the Lieutenant Governor shall be chosen at the same time, and for the same term.** The person who has served two consecutive popular elective four-year terms of office as Governor or **Lieutenant Governor** shall be ineligible to succeed himself.

Constitution, Art. V, Pt. First, § 3, as amended by CR 1975, c. 5, is repealed and the following enacted in its place:

Section 3. Election; votes to be returned to Lieutenant Governor; provision in case of tie. The meetings for election of Governor and Lieutenant Governor shall be notified, held and regulated and votes shall be received, sorted, counted and declared and recorded, in the same manner as those for Senators and Representatives. The Governor and Lieutenant Governor shall be chosen jointly, by the casting by each voter of a single vote applicable to both offices, and the Legislature shall by law provide the manner by which the choice shall be made. Copies of lists of votes shall be sealed and returned to the Lieutenant Governor's office in the same manner and at the same time as those for Senators. The Lieutenant Governor for the time being shall, on the first Wednesday after the first Tuesday of January then next, lay the lists returned to the Lieutenant Governor's office before the Senate and House of Representatives to be by them examined, together with the ballots cast if they so elect, and they shall determine the number of votes duly cast for the office of Governor, and the respective persons having the highest number of votes cast jointly for them for Governor and Lieutenant Governor respectively shall be by them declared elected. If there shall be a tie between the persons having the largest number of votes for Governor and Lieutenant Governor, the House of Representatives and the Senate meeting in joint session, and each member of the bodies having a single vote, shall elect two of those persons having so received an equal number of votes and the persons so elected by the Senate and House of Representatives shall be declared the Governor and Lieutenant Governor.

Constitution, Art. V, Pt. First, § 5, as amended by CR 1975, c. 3, is repealed and the following enacted in its place:

Section 5. Disqualifications. No person holding any office or place under the United States, this State, or any other power, shall assume the office of Governor or Lieutenant Governor, nor shall any such person exercise the office of Governor or Lieutenant Governor except as provided by the Constitution.

Constitution, Art. V, Pt. First, § 6, is amended to read:

Section 6. Compensation. The Governor or Lieutenant Governor shall, at stated times, receive for his services a compensation, which shall not be increased or diminished during his continuance in office.

Constitution, Art. V, Pt. First, § 14, first 3 paragraphs, as amended by CR 1975, c. 3 and C. 5, are repealed and the following enacted in their place:

Whenever the office of Governor shall become vacant because of the death, resignation or removal of a Governor in office, or any other cause, the Lieutenant Governor shall assume the office of Governor until another Governor shall be duly qualified. When the vacancy occurs more than ninety days preceding the date of the primary election for nominating candidates to be voted for at the biennial election next succeeding, the Lieutenant Governor shall assume the office of Governor until the first Wednesday after the first Tuesday of January following the biennial election. At the biennial election, a Governor shall be elected to fill the unexpired term created by the vacancy. When the vacancy occurs less than ninety days preceding the date of a primary election the Lieutenant Governor shall fill the unexpired term.

Whenever the offices of Governor and Lieutenant Governor are vacant at the same time, the President of the Senate shall assume the office of Governor for the same term and under the same conditions as the Lieutenant Governor.

Whenever the offices of Governor, Lieutenant Governor and President of the Senate are vacant at the same time, the Speaker of the House of Representatives shall assume the office of Governor for the same term and under the same conditions as the Lieutenant Governor. The Legislature shall have power, by appropriate legislation to provide for the circumstance of vacancies simultaneously in the offices of Governor, Lieutenant Governor, President of the Senate and Speaker of the House.

Constitution, Art. V, Pt. First, § 15, as enacted by CR 1975, c. 3, is amended to read:

Section 15. Inability of the Governor to discharge the powers and duties of his office. Whenever the Governor is unable to discharge the powers and duties of his office because of mental or physical disability, the ~~President of the Senate~~ **Lieutenant Governor**, or if that office is vacant, the ~~Speaker of the House of Representatives~~ **President of the Senate**, shall exercise the powers and duties of the office of Governor until the Governor is again able to discharge the powers and duties of his office, or until the office of Governor is declared to be vacant or until another Governor shall be duly qualified.

Whenever the Governor is unable to discharge the powers and duties of his office, he may so certify to the Chief Justice of the Supreme Judicial Court, in which case and upon notice from the Chief Justice, the ~~President of the Senate~~ **Lieutenant Governor**, or if that office is vacant, the ~~Speaker of the House of Representatives~~ **President of the Senate**, shall exercise the powers and duties of the office of Governor until such time as the Governor shall certify to the Chief

Justice that he is able to discharge such powers and duties and the Chief Justice shall so notify the officer who is exercising the powers and duties of the office of Governor.

When the ~~Secretary of State~~ **Lieutenant Governor** shall have reason to believe that the Governor is unable to discharge the duties of his office, he may so certify to the Supreme Judicial Court, declaring his reasons for such belief. After notice to the Governor, a hearing before the court and a decision by a majority of the court that the Governor is unable to discharge the duties of his office, the court shall notify the ~~President of the Senate~~ **Lieutenant Governor**, or if that office is vacant the ~~Speaker of the House of Representatives~~ **President of the Senate**, of such inability and he shall exercise the functions, powers and duties of the office of Governor until such time as the ~~Secretary of State~~ **Lieutenant Governor** or the Governor shall certify to the court that the Governor is able to discharge the duties of his office and the court, after notice to the Governor and a hearing before the court, decides that the Governor is able to discharge the duties of his office and so notifies the officer who is exercising the powers and duties of the office of Governor.

Whenever either the President of the Senate ~~or Speaker of the House of Representatives~~ shall exercise the office of Governor, he shall receive only the compensation of Governor, but his duties as President ~~or Speaker~~ shall be suspended; and the Senate ~~or House~~ shall fill the vacancy resulting from such suspension, until he shall cease to exercise the office of Governor.

Constitution, Art. V, Pt. 3rd, § 1, is repealed.

Constitution, Art. V, Pt. 3rd, § 1-A is enacted to read:

Section 1-A. Duties. The Lieutenant Governor shall be an officer in the Executive Branch of government. He shall execute such duties and carry out such responsibilities as the Governor shall assign to him.

Constitution, Art. V, Pt. 3rd, § 2 is amended to read:

Section 2. Records of State; deputies. The records of the State shall be kept in the office of the ~~secretary~~ **Lieutenant Governor**, who may appoint his deputies, for whose conduct he shall be accountable.

Constitution, Art. IX, § 1, last ¶, as amended by CR 1975, c. 4, is further amended to read:

The oaths or affirmations shall be taken and subscribed by the Governor **and Lieutenant Governor** before the presiding officer of the Senate, in the presence of both Houses of the Legislature, and by the Senators and Representatives before the Governor, and by the residue of said officers before such persons as shall be prescribed by the Legislature; and whenever the Governor **or Lieutenant Governor** shall not be able to attend during the session of the Legislature to take and subscribe said oaths or affirmations, such oaths or affirmations may be taken and subscribed in the recess of the Legislature before any Justice of the Supreme

Judicial Court and provided further that, if the Governor shall be unable to appear and administer the oath to the Senators and Representatives, such oaths shall be administered by the Chief Justice of the Supreme Judicial Court or in his absence, by the senior Associate Justice of said Supreme Judicial Court present at the State Capitol on the first day of the term for which said Senators and Representatives shall have been elected.

Constitution, Art. IX, § 3 is amended to read:

Section 3. Commissions. All commissions shall be in the name of the State, signed by the Governor, attested by the ~~Secretary~~ **Lieutenant Governor** or his deputy and have the seal of the State thereto affixed.

Constitutional referendum procedure; form of question; effective date. Resolved: That the city aldermen, town selectmen and plantation assessors of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a special statewide election on the Tuesday following the first Monday of November following the passage of this resolution, to vote upon the ratification of the amendments proposed in this resolution by voting upon the following question:

“Shall the Constitution of Maine be amended to abolish the Office of Secretary of State and to create the Office of Lieutenant Governor?”

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within the corresponding square below the word “Yes” or “No.” The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are in favor of the amendments, the Governor shall proclaim that fact without delay and the amendments shall become part of the Constitution on the date of the proclamation.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purpose of this referendum.

STATEMENT OF FACT

This constitutional resolution provides for the office of Lieutenant Governor and provides that he assume the duties presently exercised by the Secretary of State.