

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

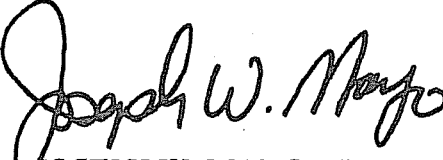
No. 1296

H.P. 965

House of Representatives, April 19, 1993

**RESOLUTION, Proposing an Amendment to the Constitution of Maine
to Provide for the Popular Election of the Secretary of State.**

Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative BENNETT of Norway.
Cosponsored by Senator BERUBE of Androscoggin and
Representatives: AULT of Wayne, BARTH of Bethel, FOSS of Yarmouth, GRAY of Sedgwick,
KNEELAND of Easton, KUTASI of Bridgton, LOOK of Jonesboro, MARSHALL of Eliot,
PLOWMAN of Hampden, SIMONEAU of Thomaston, WHITCOMB of Waldo, ZIRNKILTON
of Mount Desert, Senator: BUTLAND of Cumberland.

2 **Constitutional amendment. RESOLVED:** Two thirds of each
branch of the Legislature concurring, that the following
4 amendment to the Constitution of Maine be proposed:

6 **Constitution, Art. V, Part First, §§14 and 15** are amended to read:

8 **Section 14. Vacancy, how supplied.** Whenever ~~When~~ When the
office of Governor shall ~~become~~ becomes vacant because of the
10 death, resignation or removal of a Governor in office, or any
other cause, the ~~President-of-the-Senate~~ Secretary of State shall
12 assume the office of Governor until another Governor shall ~~be~~ is
duly qualified. When the vacancy occurs more than 90 days
14 preceding the date of the primary election for nominating
candidates to be voted for at the next biennial election ~~next~~
16 succeeding, the ~~President-of-the-Senate~~ Secretary of State shall
assume the office of Governor until the first Wednesday after the
18 first Tuesday of January following the biennial election. At the
biennial election, a Governor shall must be elected to fill the
unexpired term created by the vacancy. When the vacancy occurs
20 less than 90 days preceding the date of a primary election, the
~~President--of--the--Senate~~ Secretary of State shall fill the
22 unexpired term.

24 Whenever ~~When~~ When the offices of Governor and ~~President-of-the~~
Senate Secretary of State are vacant at the same time, the
26 ~~Speaker-of-the-House-of-Representatives~~ President of the Senate
shall assume the office of Governor for the same term and under
28 the same conditions as the ~~President-of-the-Senate~~ Secretary of
State.

30 Whenever ~~When~~ When the offices of Governor, Secretary of State
32 and President of the Senate ~~and--Speaker--of--the--House--of~~
~~Representatives~~ are vacant at the same time, the ~~person-acting-as~~
34 ~~Secretary-of-State~~ Speaker of the House of Representatives for
the time being shall exercise the office of Governor and shall
36 ~~forthwith~~ immediately by proclamation convene the Senate and the
House of Representatives, which shall fill respectively the
38 vacancies in the offices of the ~~President-of-the-Senate~~ Secretary
of State and the ~~Speaker-of-the-House,~~ President of the Senate
40 and, by joint ballot of the Senators and Representatives in
convention, choose a person who shall assume the office of
42 Governor for the same term and under the same conditions as the
~~President-of-the-Senate~~ Secretary of State.

44 **Mental or physical disability of the Governor continuously**
46 **for more than 6 months.** Whenever ~~When~~ When for 6 months a Governor in
office shall ~~have-been~~ is continuously unable to discharge the
48 powers and duties of that office because of mental or physical

2 disability ~~sueh~~, the office shall ~~be is~~ deemed vacant. Sueh The
3 vacancy shall must be declared by the Supreme Judicial Court upon
4 presentment ~~to-it~~ of a joint resolution declaring the ground of
5 the vacancy, adopted by a vote of 2/3 of the Senators and
6 Representatives in convention, and, upon notice, hearing before
7 the court and a decision by a majority of the court that ground
8 exists for declaring the office ~~to-be~~ vacant.

9
10 **Section 15. Temporary mental or physical disability of**
11 **Governor.** Whenever When the Governor is unable to discharge the
12 powers and duties of that office because of mental or physical
13 disability, the ~~President of the Senate,~~ Secretary of State or,
14 if that office is vacant, the ~~Speaker of the House of~~
15 ~~Representatives,~~ President of the Senate shall exercise the
16 powers and duties of the office of Governor until the Governor is
17 again able to discharge the powers and duties of that office, ~~ex~~
18 until the office of Governor is declared ~~to-be~~ vacant or until
19 another Governor shall ~~be is~~ duly qualified.

20 Whenever When the Governor is unable to discharge the powers
21 and duties of that office, the Governor may so certify to the
22 Chief Justice of the Supreme Judicial Court, ~~in which case~~ and,
23 upon notice from the Chief Justice, the ~~President of the Senate,~~
24 Secretary of State or, if that office is vacant, the ~~Speaker of~~
25 ~~the House of Representatives,~~ President of the Senate shall
26 exercise the powers and duties of the office of Governor until
27 such time as the Governor shall ~~certify~~ certifies to the Chief
28 Justice that the Governor is able to discharge ~~sueh~~ the powers
29 and duties and the Chief Justice shall so notify the officer who
30 is exercising the powers and duties of the office of Governor.

31 When the ~~Secretary of State shall have~~ Attorney General has
32 reason to believe that the Governor is unable to discharge the
33 duties of that office, the ~~Secretary of State~~ Attorney General
34 may so certify to the Supreme Judicial Court, declaring the
35 reason for ~~sueh~~ that belief. After notice to the Governor, a
36 hearing before the court and a decision by a majority of the
37 court that the Governor is unable to discharge the duties of the
38 office of Governor, the court shall notify the ~~President of the~~
39 ~~Senate,~~ Secretary of State or, if that office is vacant, the
40 ~~Speaker of the House of Representatives,~~ President of the Senate
41 of ~~sueh~~ that inability and that officer shall exercise the
42 functions, powers and duties of the office of Governor until such
43 time as the ~~Secretary of State~~ Attorney General or the Governor
44 shall ~~certify~~ certifies to the court that the Governor is able to
45 discharge the duties of the office of Governor and the court,
46 after notice to the Governor and a hearing before the court,
47 decides that the Governor is able to discharge the duties of that
48 office and so notifies the officer who is exercising the powers
49 and duties of the office of Governor.
50

2 Whenever ~~When~~ either the Secretary of State or the President
3 of the Senate ~~or Speaker of the House of Representatives~~ shall
4 ~~exercise~~ exercises the office of Governor, the officer shall is
5 entitled to receive only the compensation of Governor, but the
6 officer's duties as Secretary of State or President ~~or Speaker~~
7 shall ~~be of the Senate~~ are suspended; and the Senate or the House
8 of Representatives shall fill the vacancy resulting from such
9 ~~that~~ suspension, until the officer shall ~~cease~~ ceases to exercise
10 the office of Governor.

12 Constitution, Art. V, Part Second, §1 is repealed and the
13 following enacted in its place:

14 Section 1. Election. The Secretary of State is elected by
15 the qualified electors and holds office for 4 years from the
16 first Wednesday after the first Tuesday of the January following
17 the election until a successor has been duly elected and
18 qualified. Vacancy in that office must be filled by appointment
19 by the Governor, subject to confirmation as required by this
20 Constitution for Justices of the Supreme Judicial Court.

22 ; and be it further

24
25 **Constitutional referendum procedure; form of question; effective**
26 **date. Resolved:** That the municipal officers of this State shall
27 notify the inhabitants of their respective cities, towns and
28 plantations to meet, in the manner prescribed by law for holding
29 a statewide election, at a statewide election, on the Tuesday
30 following the first Monday of November following the passage of
31 this resolution, to vote upon the ratification of the amendment
32 proposed in this resolution by voting upon the following question:

34 "Do you favor amending the Constitution of Maine to provide
35 that the Secretary of State be elected by the people in the
36 same manner as the Governor and hold office for 4 years?"

38 The legal voters of each city, town and plantation shall
39 vote by ballot on this question and designate their choice by a
40 cross or check mark placed within the corresponding square below
41 the word "Yes" or "No." The ballots must be received, sorted,
42 counted and declared in open ward, town and plantation meetings
43 and returns made to the Secretary of State in the same manner as
44 votes for members of the Legislature. The Governor shall review
45 the returns and, if it appears that a majority of the legal votes
46 are cast in favor of the amendment, the Governor shall proclaim
47 that fact without delay and the amendment becomes part of the
48 Constitution on the date of the proclamation; and be it further

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

8 **STATEMENT OF FACT**

10 This resolution provides for direct popular election of the
12 Secretary of State in the manner currently provided for the
Governor. This resolution also changes the line of succession
14 due to incapacitation of the Governor, making the Secretary of
State the next in line.