

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1189

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H.P. 822

House of Representatives, April 1, 2015

### An Act To Make Certain Local Primaries Nonpartisan

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

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative KUMIEGA of Deer Isle.

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

2 **Sec. 1. 18-A MRSA §1-501, first ¶**, as amended by PL 1995, c. 683, §2, is  
3 further amended to read:

4 Registers of probate are elected or appointed as provided in the Constitution of  
5 Maine. Their election is effected and determined as is provided respecting county  
6 commissioners by Title 30-A, chapter 1, subchapter H 2, except that nomination and  
7 qualification of candidates and any necessary open primary election are governed by Title  
8 21-A, chapter 5, subchapter 1-A, and they enter upon the discharge of their duties on the  
9 first day of January following their election; but the term of those appointed to fill  
10 vacancies commences immediately. All registers, before acting, shall give bond to the  
11 treasurer of their county with sufficient sureties in the sum of \$2,500, except that this sum  
12 must be \$10,000 for Cumberland County. Every register, having executed such bond,  
13 shall file it in the office of the clerk of the county commissioners of that register's county,  
14 to be presented to them at their next meeting for approval. After the bond has been so  
15 approved, the clerk shall record it and certify the fact thereon, and retaining a copy  
16 thereof, deliver the original to the register, who shall deliver it to the treasurer of the  
17 county within 10 days after its approval, to be filed in the treasurer's office. Vacancies  
18 caused by death, resignation, removal from the county, permanent incapacity as defined  
19 in Title 30-A, section 1, subsection 2-A or any other reason must be filled as provided in  
20 the Constitution of Maine. ~~In the case of a vacancy in the term of a register of probate~~  
21 ~~who was nominated by primary election before the general election, the register of~~  
22 ~~probate appointed by the Governor to fill the vacancy until a successor is chosen at~~  
23 ~~election must be enrolled in the same political party as the register of probate whose term~~  
24 ~~is vacant. In making the appointment, the Governor shall choose from any~~  
25 ~~recommendations submitted to the Governor by the county committee of the political~~  
26 ~~party from which the appointment is to be made.~~

27 **Sec. 2. 21-A MRSA c. 5, sub-c. 1-A** is enacted to read:

28 **SUBCHAPTER 1-A**

29 **OPEN PRIMARIES FOR CERTAIN OFFICES**

30 **§345. Covered office**

31 For purposes of this subchapter, unless the context otherwise indicates, "covered  
32 office" means a register of probate elected pursuant to Title 18-A, section 1-501, a district  
33 attorney elected pursuant to Title 30-A, section 251 or a sheriff elected pursuant to Title  
34 30-A, section 371-B.

35 **§346. Nomination and qualification; open primary election**

36 Notwithstanding subchapter 1 or 2, this section governs the nomination and  
37 qualification of a candidate for a covered office and any necessary open primary election.

1 **1. Limitations to candidacy and qualification.** The limitations to candidacy  
2 specified in section 331, subsection 3 and section 332 and the requirements and  
3 qualifications specified in section 333 apply to a candidate for a covered office.

4 **2. Open primary petition requirements.** An open primary petition must be on a  
5 form provided by the Secretary of State and is governed by the following provisions.

6 A. A candidate for nomination must file an open primary petition and consent in  
7 accordance with this section. An open primary petition must contain the name of  
8 only one candidate and that candidate's place of residence as well as the office sought  
9 and the electoral division. An open primary petition may contain as many separate  
10 papers as necessary and may contain the candidate's consent required under this  
11 section.

12 B. An open primary petition may be signed only by voters of the electoral division  
13 that is to make the nomination. Other signatures are void. The voter must personally  
14 sign the voter's name in such a manner as to satisfy the registrar of the municipality  
15 that the voter is a registered voter. Either the voter or the circulator of the open  
16 primary petition must print the voter's name. The voter or the circulator of the open  
17 primary petition must write or print the voter's residence address and municipality of  
18 registration. Ditto marks are permitted for residence address and municipality of  
19 registration only.

20 C. Open primary petitions must be signed by the same number of voters as specified  
21 for a primary election in accordance with section 335, subsection 5 and may not be  
22 signed before January 1st of the election year in which it is to be used.

23 D. The circulator of an open primary petition shall verify by oath or affirmation  
24 before a notary public or other person authorized by law to administer oaths or  
25 affirmations that the circulator personally witnessed all of the signatures to the open  
26 primary petition and that to the best of the circulator's knowledge and belief each  
27 signature is the signature of the person whose name it purports to be; each signature  
28 authorized under section 153-A was made by the authorized signer in the presence  
29 and at the direction of the voter; and each person is a resident of the electoral division  
30 named in the open primary petition.

31 E. The registrar, or clerk at the request or upon the absence of the registrar, of each  
32 municipality concerned shall certify which names on an open primary petition appear  
33 in the central voter registration system as registered in that municipality and may not  
34 certify any names that do not satisfy the requirements of this section.

35 F. An open primary petition must be filed in the office of the Secretary of State  
36 before 5 p.m. on March 15th of the election year in which it is to be used. For a  
37 candidate to qualify for the ballot, an open primary petition must meet all of the  
38 requirements of this section. If the circulator swears an oath or affirmation in  
39 accordance with paragraph D that the circulator reasonably believes to be true and  
40 accurate at the time the oath or affirmation is sworn and there is no proof of fraud or  
41 a knowingly false statement by the circulator, the voters' signatures that do not meet  
42 the requirements of paragraph B may not be counted, but the open primary petition is  
43 otherwise valid.

1           G. The written consent of each candidate must be filed with the open primary  
2 petition under paragraph F. The consent must contain a statement signed by the  
3 candidate that the candidate will accept the nomination of the open primary election.  
4 The Secretary of State shall provide a form on which the consent of the candidate is  
5 made that must include a list of the statutory and constitutional requirements of the  
6 office sought by the candidate. The statement may be printed as a part of the open  
7 primary petition. A candidate may file only one consent. The consent is valid even  
8 though it may be part of an open primary petition that is void. The consent must  
9 contain a declaration of the candidate's place of residence and a statement that the  
10 candidate meets the qualifications of the office the candidate seeks, which the  
11 candidate must verify by oath or affirmation before a notary public or other person  
12 authorized by law to administer oaths or affirmations that the declaration is true. The  
13 challenge provisions of section 337 apply to an open primary petition. If, pursuant to  
14 the challenge procedures in section 337, any part of the declaration is found to be  
15 false by the Secretary of State, the consent and the open primary petition are void.

16           **3. When open primary held; time and nature of election.** If more than 2  
17 candidates qualify for an open primary under this section, an open primary election must  
18 be held on the 2nd Tuesday of June of the general election year and is considered to be a  
19 separate election. This includes the duties of public officials in announcing the election,  
20 providing forms and ballots, keeping records and any other matter necessary to effect the  
21 purpose of an open primary election. An open primary election must be conducted in the  
22 same manner as the general election, as nearly as practicable. All voters of the electoral  
23 division, regardless of any party enrollment, may vote in the open primary. The 2  
24 candidates who receive the greatest numbers of votes are nominated to appear on the  
25 general election ballot for the covered office. If 2 or fewer candidates qualify for an open  
26 primary under this section, no open primary election is held and the qualified candidates  
27 are nominated to appear on the general election ballot for the covered office. Candidates  
28 nominated to appear on the general election ballot for covered offices may be enrolled in  
29 the same political party.

30           **4. Write-in candidates.** Write-in candidates may be nominated in an open primary  
31 in the same manner as provided in section 338.

32           **Sec. 3. 30-A MRSA §251, sub-§1,** as enacted by PL 1987, c. 737, Pt. A, §2 and  
33 Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is  
34 further amended to read:

35           **1. Election.** ~~The district attorneys shall be~~ are elected on the Tuesday following the  
36 first Monday of November in every 4th year, by the voters of the respective prosecutorial  
37 districts. The votes ~~shall~~ must be received, sorted, counted and declared in the same  
38 manner as votes for Representatives. The names of the persons voted for, the number of  
39 votes for each and the whole number of ballots received ~~shall~~ must be recorded by the  
40 clerk of each municipality within the prosecutorial district. The clerk shall send true  
41 copies of these names and totals, sealed and attested as returns of votes for Senators, to  
42 the Secretary of State. The nomination and qualification of candidates and any necessary  
43 open primary election is governed by Title 21-A, chapter 5, subchapter 1-A.

