

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1594

S.P. 625

In Senate, April 11, 2023

An Act to Provide for Voters Expressing Preferences in Ranked-choice Voting

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator GROHOSKI of Hancock.

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

2 **Sec. 1. 21-A MRSA §723-A, sub-§1, ¶F**, as amended by PL 2019, c. 320, §9, is
3 further amended to read:

4 F. "Last-place candidate" means the candidate with the fewest ~~votes~~ preferences in a
5 round of the ranked-choice voting count.

6 **Sec. 2. 21-A MRSA §723-A, sub-§1, ¶G**, as amended by PL 2019, c. 320, §9, is
7 further amended to read:

8 G. "Mathematically impossible to be elected," with respect to a candidate, means
9 either:

10 (1) The candidate cannot be elected because the candidate's ~~vote~~ preference total
11 in a round of the ranked-choice voting count plus all ~~votes~~ preferences that could
12 possibly be transferred to the candidate in future rounds from candidates with fewer
13 ~~votes~~ preferences or an equal number of ~~votes~~ preferences would not be enough to
14 surpass the candidate with the next-higher ~~vote~~ preference total in the round; or

15 (2) The candidate has a lower ~~vote~~ preference total than a candidate described in
16 subparagraph (1).

17 **Sec. 3. 21-A MRSA §723-A, sub-§1, ¶H-2** is enacted to read:

18 H-2. "Preference" means a voter's expression of a ranking on any given round.

19 **Sec. 4. 21-A MRSA §723-A, sub-§1, ¶J**, as amended by PL 2019, c. 320, §11, is
20 further amended to read:

21 J. "Round" means an instance of the sequence of ~~vote counting~~ steps to count
22 preferences established in subsection 2 and in rules adopted by the Secretary of State.

23 **Sec. 5. 21-A MRSA §723-A, sub-§1, ¶L** is enacted to read:

24 L. "Vote" means the complete and undivided expression of all preferences signified
25 by a voter in one contest on the ballot.

26 **Sec. 6. 21-A MRSA §723-A, sub-§2**, as amended by PL 2019, c. 320, §12, is
27 further amended to read:

28 **2. Procedures.** Except as provided in subsections 3 and 4, the following procedures
29 are used to determine the winner of an election determined by ranked-choice voting. The
30 ranked-choice voting count must proceed in rounds. In each round, the number of ~~votes~~
31 preferences for each continuing candidate must be counted. Each continuing ballot counts
32 as one ~~vote~~ preference for its highest-ranked continuing candidate for that round.
33 Exhausted ballots are not counted for any continuing candidate. The round then ends with
34 one of the following 2 potential outcomes.

35 A. If there are 2 or fewer continuing candidates, the candidate with the most ~~votes~~
36 preferences is declared the winner of the election.

37 B. If there are more than 2 continuing candidates, the last-place candidate is defeated
38 and a new round begins.

39 **Sec. 7. 21-A MRSA §723-A, sub-§3**, as amended by PL 2019, c. 320, §13, is
40 further amended to read:

1 **3. Ties.** A tie under this section between last-place candidates in any round must be
2 decided by lot, and the candidate chosen by lot is defeated. The result of the tie resolution
3 must be recorded and reused in the event of a recount. A tie between candidates for the
4 most ~~votes~~ preferences in the final round must be decided as provided in section 732.

5 **Sec. 8. 21-A MRSA §723-A, sub-§3-A** is enacted to read:

6 **3-A. Returns; vote total.** On a ranked-choice ballot, a vote is not returned until all
7 the preferences have been considered or the tabulation process in this section demonstrates
8 that the outcome does not depend on considering additional preferences. When tabulating
9 the vote total in any contest, the number of preferences after that candidate's final round of
10 tabulation is deemed that candidate's vote total.

11 **Sec. 9. 21-A MRSA §723-A, sub-§5,** as amended by PL 2017, c. 316, §9, is further
12 amended to read:

13 **5. Effect on rights of political parties.** For all statutory and constitutional provisions
14 in the State pertaining to the rights of political parties, the number of votes cast for a party's
15 candidate for an office determined by ranked-choice voting is the number of ~~votes~~
16 preferences credited to that candidate after the initial counting in the first round described
17 in subsection 2.

18 **Sec. 10. 21-A MRSA §723-A, sub-§5-B,** as amended by PL 2021, c. 273, §11, is
19 further amended to read:

20 **5-B. Presidential primary elections; selection of delegates.** Notwithstanding any
21 provision of this section to the contrary, for presidential primary elections, batch
22 elimination may not be used for any candidates with more than 100 ~~votes~~ preferences,
23 tabulation must continue until only 2 continuing candidates remain, separate tabulations
24 must be conducted statewide and for each congressional district and selection and
25 allocation of delegates to a party's national presidential nominating convention must be in
26 accordance with any reasonable procedures established at the state party convention.

27 **Sec. 11. 21-A MRSA §723-A, sub-§5-B,** as amended by PL 2021, c. 750, §11 and
28 affected by §14, is further amended to read:

29 **5-B. Presidential primary elections; selection of delegates.** Notwithstanding any
30 provision of this section to the contrary, for presidential primary elections, batch
31 elimination may not be used for any candidates with more than 100 ~~votes~~ preferences,
32 tabulation must continue until only 2 continuing candidates remain, separate tabulations
33 must be conducted statewide and for each congressional district and selection and
34 allocation of delegates to a party's national presidential nominating convention must be in
35 accordance with any reasonable procedures established at the state party convention, except
36 that unenrolled voters who participate in the party's primary election must be considered
37 members of the party for purposes of allocating delegates.

38 **Sec. 12. 21-A MRSA §723-A, sub-§5-C** is enacted to read:

39 **5-C. Construction.** This section must be liberally construed to effectuate the
40 legislative purpose of capturing a voter's full expression of preferences in ranked-choice
41 voting contests where 3 or more candidates appear; any single preference may not be
42 considered the voter's vote for the purpose of determining the election winner unless the
43 voter has not expressed a preference for another continuing candidate. The Legislature

1 finds and declares that the complete and undivided expression of all preferences by a voter
2 is the only valid expression of the voter's vote in any contest and that a single preference
3 ranking alone may not validly be considered the voter's vote unless that voter has not
4 expressed a preference for another continuing candidate.

5 **Sec. 13. Effective date.** That section of this Act that amends the Maine Revised
6 Statutes, Title 21-A, section 723-A, subsection 5-B, as amended by Public Law 2021,
7 chapter 750, section 11 and affected by section 14, takes effect January 1, 2024.

8 **SUMMARY**

9 This bill amends the ranked-choice voting law by replacing "votes" when done as part
10 of the ranking with "preference"; the purpose of this change is to clarify that the voter is
11 expressing a preference when using ranked-choice voting, as opposed to voting in each
12 round. The bill defines "vote" as the final expression of all the preferences made by a voter
13 in one election and establishes that the number of preferences after a candidate's final round
14 is deemed to be that candidate's vote total. A vote is not considered returned until all the
15 preferences have been considered or further consideration would not make a difference in
16 the outcome.

17 Finally, the bill requires the ranked-choice voting law to be liberally construed.