

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1516

S. P. 472

Referred to Committee on State Government and ordered printed.

In Senate, March 20, 1973

Sent down for concurrence

HARRY N. STARBRANCH, Secretary

Presented by Senator Wyman of Washington.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

RESOLUTION, Proposing an Amendment to the Constitution to Enlarge the Executive Council and Provide for Selection of the Council by the People.

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

Constitution, Article V, Part Second, Sections 1 - 4, repealed and replaced. Sections 1 to 4 of Part Second of Article V of the Constitution, as amended, are repealed and the following enacted in place thereof:

Section 1. Council. There shall be a Council, consisting of nine persons elected at the same time and for the same term as Representatives by the qualified electors of the districts into which the State shall be from time to time divided and said persons shall be citizens of the United States and residents of this State, to advise the Governor in the executive part of government, whom the Governor shall have full power, at his discretion, to assemble; and he with the Councillors, or a majority of them, may from time to time hold and keep a Council, for ordering and directing the affairs of state according to law.

The Legislature which shall convene after the adoption of this amendment shall cause the State to be divided into nine districts for the choice of Councillors, and the Legislature, in the year of our Lord one thousand nine hundred and eighty-one, and every tenth year thereafter, shall do likewise. The districts shall conform, as near as may be to county lines and be apportioned according to the number of inhabitants so that each district shall have equal population as nearly as practicable and the basis of computation of the number of inhabitants shall be the Federal Decennial Census.

Section 2. Election. The meetings within this State for the choice of Councillors shall be warned in due course of law by qualified officials of the several towns and cities seven days at least before the election, and the election officials of the various towns and cities shall preside impartially at such meetings, receive the votes of all the qualified electors, sort, count and declare them in open meeting; and a list of the persons voted for shall be formed, with the number of votes for each person against his name. Cities and towns belonging to any representative district shall hold their meetings at the same time in the respective cities and towns; and such meetings shall be notified, held and regulated, the votes received, sorted, counted and declared in the same manner. 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 forthwith. The Governor and Council shall examine the returned copies of such lists and, twenty days before the first Wednesday of January biennially, shall issue a summons to such persons as shall appear to have been elected by a plurality of all votes returned, to attend and take their seats.

Section 3. Procedure for filling vacancies. The Senate shall, on said first Wednesday of January, biennially, determine who is elected by a plurality of votes to be Councillors in each district. All vacancies in the Council arising from death, resignation, removal from the State or like causes, and also vacancies, if any, which may occur because of the failure of any district to elect by a plurality of votes the Councillor to which said district shall be entitled, shall be filled by an immediate election in the unrepresented district. The Governor shall issue a proclamation therefor and therein fix the time of such election.

Section 4. Recorded. The resolutions and advice of Council shall be recorded in a register, and signed by the members agreeing thereto, which may be called for by either House of the Legislature; and any Councillor may enter his dissent to the resolution of the majority.

Section 5. Limitation. No member of Congress, or of the Legislature of this State, nor any person holding any office under the United States, post officers excepted, nor any civil officers under this State, justices of the peace and notaries public excepted, shall be Councillors. No Councillor shall be appointed to any office during the time for which he shall have been elected.

Effective date. Resolved: That the amendment herein proposed, if adopted, shall become effective January 1, 1975.

Form of question and date when amendment shall be voted upon. Resolved: That the aldermen of cities, the selectmen of towns and the assessors of the several plantations of this State are empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives at the next general election in the month of November or special state-wide election on the Tuesday following the first Monday of November following

the passage of this resolution to give in their votes upon the amendment proposed in the foregoing resolution, and the question shall be:

“Shall the Constitution be amended as proposed by a resolution of the Legislature to Enlarge the Executive Council and Provide for Selection of the Council by the People?”

The inhabitants of said cities, towns and plantations shall vote by ballot on said question, and shall indicate by a cross or check mark placed against the words “Yes” or “No” their opinion of the same. The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the office of the Secretary of State in the same manner as votes for Governor and Members of the Legislature, and the Governor and Council shall review the same, and if it shall appear that a majority of the inhabitants voting on the question are in favor of the amendment, the Governor shall forthwith make known the fact by his proclamation, and the amendment shall thereupon, as of the date of said proclamation, become a part of the Constitution.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing resolution, accompanied by a copy thereof.

STATEMENT OF FACT

The purpose of this Constitutional Amendment is to provide for the popular election of Executive Council members from nine equal districts, and at the same time, to protect and retain the concept and design of the Executive Council as conceived by the architects of our democratic form of Government.

The Executive Council is intended as a check by advise and consent on the Executive Branch of Government in its transaction of the people’s business. Retention of the Executive Council, and popular election of its members, will insure the protection and continuity of these purposes, thus serving the best interests of the people.

This Constitutional Amendment places the selection of the confirming body closer to the people, the ultimate source of power upon which our great democracy is built.