

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 188**

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H. P. 158

House of Representatives, January 15, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. McKernan of Bangor.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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**RESOLUTION, Proposing an Amendment to the Constitution to Establish Filing Dates for Initiative and Referendum Petitions; Clarify when the Effective Date of a Bill is Suspended by the Filing of a Referendum Petition; Clarify the Process of Calling a Special Election for an Initiative or Referendum Vote; Limit Legislative Amendment and Repeal of Laws Initiated or Approved by the People; Clarify the Petition Process; and Provide for Review of the Validity of Petitions.**

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

Constitution, Art. IV, Pt. 3, § 17, is amended to read:

**Section 17. Proceedings for referendum; proclamation by Governor.** 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 ~~within ninety days~~ **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. The effect of any Act, bill, resolve or resolution or part or parts thereof as are specified in such petition shall be suspended upon the filing of such petition. If it is later finally determined, in accordance with any procedure enacted by the Legislature pursuant to the Constitution, that such petition was invalid, such Act, bill, resolve or resolution or part or parts thereof shall then take effect upon the day following such final determination. As soon as it appears that the effect of any Act, bill, resolve, or resolution or part or parts thereof has been suspended by petition in manner aforesaid, the Governor by public proclamation shall give notice thereof and of the time when such measure is to be voted on by the people, which shall be at the next general election not less than sixty days after such proclamation, or in case of no general election within six months thereafter the Governor may, and if so requested in said written petition therefor, shall order such measure submitted to the people at a special election not less than four nor more than six months after his proclamation thereof. 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 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. 3, § 18, is amended to read:

**Section 18. Direct initiative of legislation; number signatures necessary on direct initiative petitions.** 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 ~~or presented to either branch of the Legislature within forty-five days~~ by the hour of five o'clock, p.m., on the forty-seventh day after the date of convening of the Legislature in regular session. ~~If the forty-seventh day is a legal holiday, the period runs until the hour of five o'clock, p.m., of the next day.~~ Any measure thus proposed by 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, unless enacted without change by the Legislature at the session at which it is presented, shall be submitted to the electors together with any amended form, substitute, or recommendation of the Legislature, and in such manner that the people can choose between the competing measures or reject both. When there are competing bills and neither receives a majority of the votes given for or against both, the one receiving the most votes shall at the next general election to be held not less than sixty days after the first vote thereon be submitted by itself if it receives more than one-third of the votes given for and against both. If the measure initiated is enacted by the Legislature without change, it shall not go to a referendum vote unless in pursuance of a demand made in accordance with the preceding section. The Legislature may order a special election on any measure that is subject to a vote of the people. The Governor may, and if so requested in the written petitions addressed to the Legislature, shall, by proclamation, order any measure proposed to the Legislature as herein provided, and not enacted

by the Legislature without change, referred to the people at a special election to be held not less than four nor more than six months after such proclamation, otherwise said measure shall be voted upon at the next general election held not less than sixty days after the recess of the Legislature, to which such measure was proposed. 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 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. 3, § 19, is amended by adding at the end a new paragraph to read:

Within a period of five years from the effective date of a measure approved by vote of the people or initiated by the people and enacted without change or approved by vote of the people, the Legislature may enact a bill amending or repealing such measure only by a vote of two-thirds of all the members elected to each house or by a bill expressly conditioned upon the people's ratification by a referendum vote.

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

Section 20. Meaning of words "electors", "people", "recess of Legislature", "general election", "measure", and "written petition". As used in either any of the three preceding sections or in this section the words "electors" and "people" mean the electors of the State qualified to vote for Governor; "recess of the Legislature" means the adjournment without day of a session of the Legislature; "general election" means the November election for choice of presidential electors, Governor and other state and county officers; "measure" means an Act, bill, resolve or resolution proposed by the people, or two or more such, or part or parts of such, as the case may be; "circulator" means a person who solicits signatures for written petitions, and who must be a resident of this State and whose name must appear on the voting list of his city, town or plantation as qualified to vote for Governor; "written petition" means one or more petitions written or printed, or partly written and partly printed, with the original signatures of the petitioners attached, verified as to the authenticity of the signatures by the oath of one of the petitioners certified thereon the circulator that all of the signatures to the petition were made in his presence and that to the best of his knowledge and belief each signature is the signature of the person whose name it purports to be, and accompanied by the certificate of the clerk official authorized by law to maintain the voting list of the city, town or plantation in which the petitioners reside that their names appear on the voting list of his city, town or plantation as qualified to vote for Governor. The oath of the circulator must be sworn to in the presence of a person authorized by law to administer oaths. Written petitions 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 tenth day before the petition must be filed in the office of the Secretary of State, or, if such tenth 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. The petition shall set forth the full text of the measure requested or proposed. Petition forms shall be furnished or approved by the Secretary of State upon written application signed in the office of the Secretary of State by not fewer than ten persons, who must be residents of this State and whose names must appear on the voting list of their city, town or plantation as qualified to vote for Governor. 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 shall prepare the ballots in such form as to present the question or questions concisely and intelligibly.

Constitution, Art. IV, Pt. 3, § 22, is amended by adding at the end two new sentences to read:

The Legislature may enact further regulations not inconsistent with the Constitution to establish procedures for determination of the validity of written petitions. Such regulations 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.

Form of question and date when amendments 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 amendments proposed in the foregoing resolution, and the question shall be:

“Shall the Constitution be amended as proposed by a resolution of the Legislature to establish filing dates for initiative and referendum petitions; clarify when the effective date of a bill is suspended by the filing of a referendum petition; clarify the process of calling a special election for an initiative or referendum vote; limit legislative amendment and repeal of laws initiated or approved by the people; clarify the petition process; and provide for review of the validity of petitions?”

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 amendments, the Governor shall forthwith make known the fact by his proclamation, and the amendments 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

This resolution is the result of a study assigned by the 106th Legislature to the Joint Standing Committee on Judiciary. It represents that committee's recommendations for amendments to the Constitution to reform and improve the initiative and referendum processes, as described in further detail in the committee's report to the 107th Legislature.

The basic changes are as follows :

1) The deadline for filing both initiative and referendum petitions in the office of the Secretary of State are changed only so that the office will not have to stay open until midnight on weekends to accept petitions.

2) It is made clear that the effect of a law is suspended when referendum petitions are filed in the Secretary of State's office, and a procedure is established to have such laws become effective if the petitions are later determined to be invalid. This clarifies a questionable area in the Constitution.

3) A procedure is established for the Secretary of State to schedule a special election on an initiative or referendum question in the event that the Governor refuses or neglects to so schedule a special election after having been properly requested to do so by the petitions, as happened in a recent case.

4) Under a new provision, a law initiated or approved by vote of the people could be amended only by either another vote of the people or by a two-thirds vote of both Houses of the Legislature.

5) The signature-gathering process is improved and tightened in several ways. Any registered voter, not just a person who is one of the signers of a petition, may circulate petitions. The duties of the circulator are spelled out clearly in the oath he or she would be required to take. Local officials would be allowed ten days to certify signers as registered voters instead of having to do so at the last minute. Frivolous or crank petitions would be limited by the requirement that at least ten voters must sign an application in person at the Secretary of State's office in order to start the signature-gathering process.

6) The Legislature is given authority to establish a statutory procedure for review of the validity of petitions. The procedure must provide for some form of judicial review of any administrative determination of validity, and the procedure must be completed within one hundred days from the date of filing of petitions.