

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 1618**

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S. P. 455

In Senate, April 7, 1975

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Curtis of Penobscot.

Cosponsor: Senator Trotzky of Penobscot.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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**AN ACT to Provide for a Constitutional Convention for the Purpose of  
Revising or Altering the Constitution of the State.**

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the constitutional structure and organization of this State has become a burden on the people and thwarts the expression of their will; and

Whereas, the calling of a convention to alter or revise the Constitution should rest with the people and should thus only be called with their approval; and

Whereas, the convention, if called, should not be unduly delayed in undertaking its tasks; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. Convention to be held.** A convention for the purpose of revising or altering the Constitution of the State, within the limits set forth herein, shall be held in the hall of the House of Representatives on the first Wednesday of January, 1976.

**Sec. 2. Composition of the convention.** Said convention shall be composed of 151 delegates elected from the representative districts, one from

each district, as now provided by law for the election of members of the House of Representatives in the Legislature.

**Sec. 3. Election of delegates.** The delegates to said convention shall be elected at an election to be held on the Tuesday following the first Monday of November, 1975, which said election shall be conducted and the results thereof ascertained in the same manner as in a general election for the election of state officers; and all the provisions of this State governing such election of state officers, except such as are inconsistent with any of the provisions of this Act, shall be, and hereby are made applicable to the election of delegates to said convention.

**Sec. 4. Qualification of voters.** Persons qualified to vote for Governor shall be entitled to vote for delegates to said convention.

**Sec. 5. Qualification of delegates.** The qualifications of delegates to said convention shall be the same as the qualifications for Members of the House of Representatives in the Legislature.

**Sec. 6. Nomination of delegates; nomination petitions.** Candidates for election as delegates shall be nominated by petition and not otherwise. Nomination petitions shall be prepared and distributed by the Secretary of State and shall specify as to each candidate, his name, his residence and the electoral district or division in which he is a candidate. The total number of signatures for the nomination of each candidate or delegate must amount in the aggregate to at least 1% and not more than 2% of the total vote cast for Governor in the last general election in the electoral district or division within which such candidate is to be voted for. There shall not be in any nomination petition the name of more than one candidate proposed for nomination. Only persons qualified to vote for delegates shall sign a nomination petition and each signer shall make his signature in person, to which shall be added his place of residence. Each signer shall subscribe his name to only such number of petitions as there are delegates to be elected in the electoral district or division in which such nomination is proposed. One of the signers of each separate petition or the person circulating the petition shall make oath thereto that he believes the signatures are genuine and that the persons signing the same are qualified voters within the electoral district or division for which the nomination is proposed. Nomination petitions shall not be signed prior to the date of the taking effect of this Act. All petitions shall be filed with the Secretary of State on or before the 15th day of September, 1975.

**Sec. 7. Contents and form of ballot.** Every ballot shall contain the names and residences of all candidates duly nominated in the electoral district in which such ballot is to be voted. The names shall be arranged in alphabetical order. Appropriate instructions shall be printed on each ballot instructing the voter as to the number for whom he may vote in each electoral district and in each group and the method to be followed in marking his ballot. The person receiving the highest number of votes in the electoral district in which he is a candidate shall be declared to be elected a delegate; when more than one delegate is to be elected in any district the

persons to the number to be elected who shall receive the highest number of votes shall be declared to be elected. In case of a tie between 2 or more persons, the person or persons elected shall be determined in the manner provided by law in the case of a tie in a primary election.

**Sec. 8. Vacancies.** If there shall be a vacancy in the convention, from any cause, said vacancy shall be filled by appointment by the majority vote of the delegates elected.

**Sec. 9. Convention roll.** The Secretary of State shall on or before the day preceding the meeting of the convention furnish to the Secretary of the Senate a certified roll under the seal of the State with the names and residences of the delegates-elect according to the report of the Governor and Council and shall report the vacancies if any exist.

**Sec. 10. Preparatory committee.** A preparatory committee shall be formed to make arrangements and prepare for the convention. The President of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, the Assistant Majority Leader of the Senate, and the Assistant Minority Leader of the Senate, and the Speaker of the House, the Majority Leader of the House, the Minority Leader of the House, the Assistant Majority Leader of the House, and the Assistant Minority Leader of the House, shall constitute the preparatory committee. The committee shall have authority immediately following an affirmative vote by the voters on the referendum question of holding a Constitutional Convention, to lease or otherwise obtain suitable meeting and office space, to purchase or lease office supplies, equipment, books and other publications and other materials necessary for the work of the convention and to hire or engage such secretaries, technical assistants, printers and other employees or consultants as may be deemed necessary for the preparatory work of the convention. The committee shall initiate any studies, inquiries, surveys or analyses it may deem relevant through its own personnel or in cooperation with any public or private agencies, including institutes, universities, foundations or research organizations. In so doing, the committee may hold public or private hearings. It may issue subpoenas under the hand and seal of its chairman commanding any person to appear before it and to answer questions touching matters properly being inquired into by the committee and to produce such books, papers, records and documents as the committee deems necessary. Such subpoenas may be served upon any person and shall have the force and effect of subpoenas issued out of the courts of this State. Any person who willfully neglects or refuses to testify before the committee or to produce any books, papers, records or documents, shall be subject to the penalties provided by the laws of the State in such case. Each member of the committee shall have power to administer oaths and affirmations to witnesses appearing before the committee. The committee may request and shall receive from any department, division, board, bureau, commission or agency of the State or any political subdivision thereof such facilities, assistance and data as it deems necessary or desirable to carry out properly its powers and duties. The committee is hereby authorized and empowered to make and sign any agreements, and to do and perform any acts that may be necessary, desirable

or proper to carry out the provisions of this Act. The members of the committee shall receive no compensation for their service but shall be allowed their actual and necessary expenses incurred in the performance of their duties. The authority of the preparatory committee shall expire on the first Wednesday of January, 1976, except the authority to submit a full report to the convention shall continue until the submission of such report.

**Sec. 11. Organization of convention.** The Secretary of the Senate at 10 o'clock in the forenoon on the day appointed for the meeting of the convention as provided in section 1 shall call the delegates-elect present to order and from the certified roll furnished him as aforesaid shall call their names and if a quorum respond, he shall preside until they are qualified and a president of the convention is elected and if no quorum appear, he shall preside and the delegates present shall adjourn from day to day until a quorum appear and are qualified and a president is elected. In case of a vacancy in the office of the Secretary of the Senate, the Clerk of the House shall act in his stead. The Governor shall administer the oath to the delegates-elect as the same is administered to members of the Legislature.

**Sec. 12. Powers of the convention; limitations; mandatory duties.** The convention shall have the following powers:

1. **General powers.** The convention shall be the judge of the election and qualification of its members; it shall have the power to elect its president, secretary and other officers, and to adopt its own rules; it shall have all of the powers given to the preparatory committee in section 10; and it shall have the power to adjourn from time to time and to meet at appropriate places in the State as it shall determine. The convention shall conclude its session sine die not later than 90 days from the date a quorum shall first appear and are qualified.

2. **Substantive powers.** Except as provided herein the convention shall have the power by a vote of a majority of the 151 delegates to make recommendations on the following subjects only:

A. Annual sessions and matters to be considered before each session (now covered by the Constitution, Article IV, Part First, Section 2; Article IV, Part Third, Section 1; Article V, Part First, Section 13);

B. Abolition of Executive Council and reassignment or abolition of Executive Council powers (now covered by the Constitution, Article IV, Part First, Section 5; Article IV, Part Second, Section 4; Article V, Part First, Sections 8, 11 and 13; Article V, Part Second, Sections 1 to 4; Article V, Part Third, Sections 3 and 4; Article VI, Section 6 and Article IX, Sections 1, 4, 5, 6, 10 and 11);

C. Single member districts for the House of Representatives (now covered by the Constitution, Article IV, Part First, Sections 2 and 3);

D. Reduction in the size of the House of Representatives and establishing the size of the Senate (now covered by the Constitution, Article IV, Part First, Section 2 and Article IV, Part Second, Sections 1 and 2);

E. Reapportionment of the House of Representatives and the Senate and methods to determine regular reapportionments (now covered by the Constitution, Article IV, Part First, Sections 2 and 3 and Article IV, Part Second, Sections 1 and 2);

F. Procedures for initiative and referendum petitions and elections (now covered by the Constitution, Article IV, Part Third, Sections 17 to 22);

G. The official before whom the oaths and subscriptions of Office of the Governor, Representatives and Senators shall be taken (now covered by the Constitution, Article IX, Section 1); and

H. Any amendment to the Constitution proposed and passed by the Legislature during 1975, but not approved by the voters.

3. **Limitations.** The convention shall not consider or include in its recommendations any proposal which limits, diminishes or abolishes the people's right to petition for a referendum or direct initiative; nor shall the convention consider or include in its recommendations any proposal which abolishes either the House of Representatives or Senate and creates a Legislature of a single chamber with the unicameral system; nor shall the convention consider or include in its recommendations any other matter not within the subjects assigned to the convention.

4. **Altering the Constitution.** In dealing with the subject matter as prescribed by this section, the convention may recommend the transfer to another article of any provision contained in an article being considered, or it may recommend modification, deletion, repeal, the substitution of an entirely new provision, or continuation without change of all or any part of an article.

5. **Recommendations.** The convention shall arrange its recommendations as separate questions for the ballot, and shall frame the ballot questions which shall bring the recommendations before the electorate. There shall be no less than one separate recommendation for each subject assigned to the convention and no less than one separate ballot question for each recommendation. The recommendations may be in any number of sections which the convention deems suitable, provided that each recommendation concerns only one subject assigned to the convention.

**Sec. 13.** Manner of submitting recommendations for ratification.

1. **Submission to Secretary of State.** The recommendations made and the questions framed by the convention shall be certified by the president and secretary of the convention to the Secretary of State, not later than 100 days from the date a quorum shall first appear and are qualified.

2. **Advertising.** The Secretary of State shall advertise the recommendations of the convention in at least one newspaper of general circulation, if there is such, in each county, and also in at least 3 newspapers of general circulation in the State, twice during April or May, 1976. He shall also publish the Constitution showing the recommended changes of the convention in convenient form and send a copy thereof to each voter requesting it, and 10 copies thereof to each polling place for the use of voters during the election.

**3. Ballot preparation.** The Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the recommendations and ballot questions of the convention.

**Sec. 14. Ratification; proclamation.** The recommendations of the convention shall be submitted to the voters for ratification or rejection at the primary election in June, 1976 or at a special state-wide election on the 2nd Tuesday in June, 1976. The aldermen of the cities, the selectmen of the 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 primary election in June, 1976 or special state-wide election on the 2nd Tuesday in June, 1976, to give in their votes upon the amendments proposed in the recommendations of the constitutional convention. The questions shall be as framed by the convention. The inhabitants of said cities, towns, and plantations shall vote by ballot on each 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 each question are in favor of the amendments therein, 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.

**Sec. 15. Convention records.** The convention shall keep a journal of its proceedings, which shall contain a record of the vote of the convention on each of its recommendations and ballot questions, and a report of its proceedings. Said journal shall be filed with the Secretary of State and report of the convention's actions shall be sent to the Governor and Legislature.

**Sec. 16. Compensation.** Each delegate shall be paid for his services the same amount per day, for each day the convention is in session, as is now provided for Members of the Legislature when meeting in special session. Each delegate shall also receive mileage and expenses as now provided for Members of the Legislature when meeting in special session.

**Sec. 17. Convention open to the public.** Sessions of the convention as a whole shall be open to the public.

**Sec. 18. Registration of lobbyists.** Any natural person who is employed or engaged for compensation, by any other person or any partnership, committee, association, corporation or any other organization, to advocate passage or defeat of recommendations of the constitutional convention or proposals of any of its delegates shall, before beginning such activities, submit to the secretary of the convention a registration statement made under oath or affirmation before an officer authorized by law to administer oaths setting forth the name and business address of the lobbyist, the name and address of

the person, partnership, committee, association, corporation or other organization by whom he is employed or engaged, the name and address of the person, partnership, committee, association, corporation or other organization in whose interest he will advocate the passage or defeat of proposals of the convention and the duration of his employment. Whenever any of the facts required herein change, the lobbyist shall file a revised statement.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction, shall be sentenced to pay a fine not exceeding \$500 or to undergo imprisonment not exceeding one year, or both.

**Sec. 19. Appropriations.** There is appropriated from the General Fund the sum of \$1,057,000 to carry out the purposes of this Act. The breakdown shall be as follows:

Preparatory Committee		1975-1976
Personal Services	(33)	\$200,000
All Other		50,000
Constitutional Convention		
Personal Services	(151)	\$362,000
All Other		325,000
Secretary of State		
All Other		\$120,000

**Referendum; effective date.** This Act shall take effect 90 days after the adjournment of the Legislature only for the purpose of presenting it to the legal voters of the State of Maine at a special state-wide election to be held on the Tuesday following the first Monday of November following the passage of this Act.

The aldermen of the cities, the selectmen of the 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 a special state-wide election on the Tuesday following the first Monday of November following the passage of this Act, to give in their votes upon the acceptance or rejection of the foregoing Act, and the question shall be:

“Shall ‘An Act to Provide for a Constitutional Convention for the Purpose of Revising or Altering the Constitution of the State’, as proposed by the Legislature, and subject to the limitations therein, to consider annual sessions of the Legislature, abolition of the Executive Council, single member districts for the House of Representatives, reduction in the size of the House of Representatives and establishment of the size of the Senate, reapportionment of the House of Representatives and Senate and methods to determine regular reapportionments, procedures for initiative and referendum petitions and elections, the official before whom oaths and subscriptions of office of Governor, Representatives, and Senators shall be taken, and any amendment proposed during 1975, but not approved; but not to include proposals to



limit, diminish or abolish the people's right to petition for a referendum or direct initiative, nor proposals to create a single chamber, unicameral Legislature, nor any others become law, and such convention be called?"

The inhabitants of said cities, towns and plantations shall indicate by a cross or check mark placed within a square upon their ballots their opinion of the same, those in favor of acceptance voting "Yes" and those opposed to acceptance voting "No" and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and return 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 said Act, the Governor shall forthwith make known the fact by his proclamation and the Act shall thereupon become effective August 1, 1975.

**Secretary of State shall prepare ballots.** The Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing Act, accompanied by a copy thereof.

#### FISCAL NOTE

The appropriation is accounted for as follows:

Preparatory Committee (5 months)	
\$200,000	Salaries for staff and support personnel
50,000	Expenses for staff operations
Constitutional Convention (90 days) (65 work days)	
\$245,375	Delegates per diem
126,625	Salaries for staff & support personnel
245,375	Delegates expenses
49,075	Delegates travel
30,550	Expenses for staff operations
Secretary of State (3 elections)	
\$45,000	Referendum
45,000	Election of delegates
30,000	Ratification

#### STATEMENT OF FACT

The purpose of this bill is to provide for a Constitutional Convention for the purpose of revising or altering the Constitution of the State. The bill requires a referendum on calling the convention, the election of delegates, and the ratification, separately, of each of the convention's recommendations. A preparatory committee shall make arrangements and prepare for the convention. The convention shall only consider the following subjects:

- A. Annual sessions of the legislature;
- B. Abolition of the Executive Council;
- C. Single member districts for the House of Representatives;
- D. Reduction in the size of the House of Representatives and establishment of the size of the Senate;
- E. Reapportionment of the House of Representatives and the Senate and methods to determine the regular reapportionments;
- F. Procedures for initiative and referendum petitions and elections;
- G. The official before whom oaths and subscriptions of office of the Governor, Representatives and Senators shall be taken; and
- H. Any amendment to the Constitution passed by the Legislature in 1975, but not approved by the voters.

The Convention shall not consider or include any recommendation that limits, diminishes or abolishes the people's right to petition for a referendum or direct initiative, nor any recommendation to create a single chamber, unicameral Legislature, nor any other matter not within the subjects assigned to the convention.

The convention shall meet on the first Wednesday in January, 1976 and shall adjourn sine die 90 days after a quorum appears and is qualified. The recommendations of the convention shall then be submitted to the voters for ratification or rejection. If ratified, the Constitution shall be amended by the recommendations ratified.