

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 411

H. P. 320 House of Representatives, February 10, 1977
Referred to the Committee on Election Laws. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Boudreau of Portland.

Cosponsors: Mr. Birt of East Millinocket, Mrs. Mitchell of Vassalboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Revise Primary and Nomination Petitions.

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

Sec. 1. 21 MRSA c. 15, as amended, is repealed and the following enacted in its place:

CHAPTER 15

NOMINATION BY PRIMARY ELECTION

§ 441. Primary required

The nomination of a candidate by a party for any federal, state or county office, excluding Presidential Elector, must be made by primary election.

1. Exceptions. This does not apply to a nomination to fill a vacancy, or where the nomination is made by nomination petition.

2. Limitation. A person may file as a candidate for any federal, state or county office either by primary election or nomination petition, but not by both. A person may not file, whether by primary election or nomination petition, as a candidate for more than one federal, state or county office at any election.

§ 442. When nomination vacated

When a person already nominated for any state or county office accepts nomination to fill a vacancy, the first nomination is thereby vacated.

§ 443. Qualification for state or county office

A candidate for any federal, state or county office must be a voting resident of the electoral division he seeks to represent on the date established for filing primary petitions in the year he seeks election. He must maintain this voting residence during his term of office.

1. Exception. The first sentence of this section shall not apply to candidates for the House of Representatives, the State Senate and the Governor.

§ 444. Qualification of candidate for primary nomination

A candidate for nomination by primary election must become qualified by filing a primary petition and consent as provided in sections 445 and 446. He must be enrolled, on or before April 1st, in the party named in the petition, and must be eligible to file a petition as a candidate for nomination by primary election as provided in section 134, subsection 3. The registrar of voters in his municipality of residence shall certify to that fact upon the petition.

§ 445. Petition requirements

A primary petition is governed by the following provisions.

1. Content. It may contain as many separate papers as necessary. It may contain the consent required by section 446. It must contain the name of only one candidate, his place of residence, the office sought, his party and electoral division. When 2 United States Senators or 2 county commissioners are to be nominated, it must contain the term of office sought by the candidate.

2. By whom signed. It may be signed only by voters of the electoral division which is to make the nomination, who are enrolled in the party named in the petition. Other signatures are void.

3. How signed. The voter shall personally print and sign his name in such a manner as to satisfy the registrar of voters of his municipality that he is a registered voter and enrolled in the party named on the petition.

4. Residence. In the space provided, the voter shall personally write or print his address and his municipality of registration. Ditto marks are permitted for municipality registration only.

5. Number of signatures required. Petitions must be signed by the following numbers of voters:

A. For a candidate for the office of Governor, at least 2,000 and not more than 3,000 voters, at least 1,000 of whom must be from each congressional district;

B. For a candidate for the office of United States Senator, at least 2,000 and not more than 3,000 voters, at least 1,000 of whom must be from each congressional district;

C. For a candidate for the office of United States Representative, at least 1,000 and not more than 1,500 voters;

D. A candidate for county office, at least 150 and not more than 200 voters;

E. For a candidate for the office of State Senator, at least 100 and not more than 150 voters; and

F. For a candidate for the office of State Representative, at least 25 and not more than 40 voters.

6. When signed. A petition may not be signed before January 1st of the election year in which it is to be used.

7. Certification of petitions. Primary petitions shall be verified and certified as follows.

A. Circulator. The circulator of a primary petition shall verify before a Notary Public or Justice of the Peace that all of the signatures to the petitions 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 each such person is a member of the party named in the petition and a resident of the electoral district named in the petition.

B. Registrar. The registrar of each municipality concerned shall certify which signatures on a petition appear on the voting list of his respective city, town or plantation as qualified to vote for Governor and shall strike out any signatures of his municipality which do not satisfy subsection 3.

8. When filed. The petition must be filed in the office of the Secretary of State by or before 5 p.m. on April 1st of the election year in which it is to be used.

9. Petition void. A primary petition which does not meet the requirements of this section is void.

A. Exception. If a voter fails to comply with this section in signing the petition his name may not be counted, but the petition is otherwise valid.

§ 446. Consent of candidate to be filed

The written consent of each candidate must be filed with his primary petition.

1. Content. The consent must contain a statement over the signature of the candidate that he will accept the nomination of the primary election. The statement may be printed as a part of the primary petition.

2. Single filing sufficient. A candidate need file only one consent. The consent is valid even though it may be part of a primary petition which is void.

§ 447. Review and challenge of petitions

1. Review. On presentation of a primary petition, the Secretary of State shall review it and, if the petition contains the required number of certified signatures and is properly completed, he shall accept and file it.

2. Challenges. The procedure for a challenge of the validity of a primary petition shall be as provided in this subsection.

A. Only a registered voter residing in the electoral district of the candidate concerned may challenge the validity of a candidate's primary petition. The Secretary of State shall have received the challenge in writing, setting forth his reasons not later than 5 p.m. on the 7th day after April 1st prior to the primary election.

B. Within 10 days after the final date for filing of challenges, the Secretary of State shall hold a public hearing on any challenge properly filed, after due notice of the hearing to the candidate and to the challenger. The burden shall be upon the challenger to provide sufficient evidence to invalidate the petitions.

C. The Secretary of State shall rule on the validity of any challenge within 10 days after the completion of the hearing described in paragraph B.

D. A challenger or a candidate may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action shall be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80B, except as modified by this section. This action shall be commenced within 5 days of the date of the decision of the Secretary of State and shall be tried, without a jury, within 15 days of the date of this decision. Upon timely application, anyone shall be permitted to intervene in this action when the applicant claims an interest relating to the subject matter of the petitions, unless the applicant's interest is adequately represented by existing parties. The court shall issue its written decision containing its findings of fact and setting forth the reasons for such decision within 30 days of the date of the decision of the Secretary of State, if there is no trial.

E. Any aggrieved party may take an appeal, on questions of law, from the decision of the Superior Court by filing a notice of appeal within 3 days of this decision. The appellant shall file the required number of copies of the record with the clerk within 3 days after filing notice of appeal. After filing of a notice of appeal, the parties shall have 10 days in which to file briefs with the clerk of courts. As soon as the record and briefs have been filed, the court shall consider the case forthwith. The court shall issue its decision within 30 days of the date of the decision of the Superior Court.

§ 448. Time of election

The primary election shall be held on the 2nd Tuesday of June of each general election year.

§ 449. Primary as separate election

A primary election is deemed to be a separate election for each party which takes part in it. This includes the duties of public officials in notifying the election, providing forms and ballots, keeping records and any other matter necessary to effect the purpose of a primary election. A primary election shall be conducted as to each party as nearly as practicable the same as the general election.

§ 450. Acceptance by write-in candidate required

Within 7 days after receiving notice of his nomination, a write-in candidate must file a written acceptance with the Secretary of State.

1. Disqualified for failure to file. If he fails to do so, he becomes disqualified, and his name shall not be printed on the general election ballot.

§ 451. Candidates certified by the Secretary of State

The Secretary of State shall certify the nomination of each person nominated through the primary election process forthwith by mail.

Sec. 2. 21 MRSA c. 17, as amended, is repealed and the following enacted in its place:

CHAPTER 17

NOMINATION BY PETITION

§ 491. Nomination authorized

The nomination of a candidate, other than by a party, for any federal, state or county office must be made by nomination petition. A person may file as a candidate for any federal, state or county office either by primary election or nomination petition, but not by both. A person may not file, whether by primary election or nomination petition, as a candidate for more than one federal, state or county office at any election.

§ 492. Qualification for state or county office

A candidate for any federal, state or county office must be a voting resident of the electoral division he seeks to represent on the date established for filing nominating petitions in the year he seeks election. He must maintain this voting residence during his term of office.

1. Exception. The first sentence of this section shall not apply to candidates for the House of Representatives, the State Senate and the Governor.

§ 493. Declaration of candidacy

A person who seeks nomination by petition must file a signed declaration of candidacy with the Secretary of State by or before 5 p.m. on April 1st of the election year in which that person will be a candidate. The person filing a declaration of candidacy must include within the declaration the title of the office that person intends to seek. Failure to file such declaration prior to 5 p.m. on April 1st will result in that person's ineligibility to be a candidate for election to that office in that calendar year. That person must also file a nomination petition, as provided in section 494.

§ 494. Petition requirements

A nomination petition is governed by the following provisions.

1. Content. A nomination petition may contain as many separate papers as necessary. It may contain the consent required by section 495. It must contain the name of only one candidate, the candidate's place of residence and the office sought. It may contain the candidate's political designation,

which shall not exceed 3 words in length, shall not include the candidate's name, and shall not include the name or designation or a combination thereof or an abbreviation thereof of a party which is qualified to nominate candidates by primary election. When 2 United States Senators or 2 county commissioners are to be nominated, it must contain the term of office sought by the candidate.

A. Exception. The names of Presidential Electors must be placed on the petition as a slate. The names of the candidates for President and Vice President shall be placed on a petition for the nomination of Presidential Electors.

2. By whom signed. It may be signed only by voters of the electoral division which is to make the nomination. Other signatures are void.

3. How signed. The voter shall personally print and sign his name in such a manner as to satisfy the registrar of voters of his municipality that he is a registered voter and enrolled in the party named on the petition.

4. Residence. In the space provided, the voter shall personally write or print his address and his municipality of registration. Ditto marks are permitted for municipality of registration only.

5. Number of signatures required. Petitions must be signed by the following numbers of voters:

A. For a candidate for the office of Governor, at least 2,000 and not more than 3,000 voters, at least 1,000 of whom must be from each congressional district;

B. For a candidate for the office of United States Senator, at least 2,000 and not more than 3,000 voters, at least 1,000 of whom must be from each congressional district;

C. For a candidate for the office of United States Representative, at least 1,000 and not more than 1,500 voters;

D. For a candidate for county office, at least 150 and not more than 200 voters;

E. For a candidate for the office of State Senator, at least 100 and not more than 150; and

F. For a candidate for the office of State Representative, at least 25 and not more than 40 voters.

6. When signed. It may not be signed before January 1st of the election year in which it is to be used.

7. Certification of petitions. Nomination petitions shall be verified and certified as follows.

A. Circulator. The circulator of a nominating petition shall verify before a Notary Public or Justice of the Peace 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 each such person is a member of the party named in the petition and a resident of the electoral district named in the petition.

B. Registrar. The registrar of each municipality concerned shall certify which signatures on a petition appear on the voting list of his respective city, town or plantation as qualified to vote for Governor and shall strike out any signatures of his municipality which do not satisfy section 445, subsection 3.

8. When filed. Persons seeking nomination by petition and having submitted a declaration of candidacy in accordance with section 493 must file petitions in the office of the Secretary of State prior to 5 p.m. on the date of the primary election.

9. Petition void. A nomination petition which does not meet the requirements of this section is void.

A. Exception. If a voter fails to comply with this section in signing the petition his name may not be counted, but the petition is otherwise valid.

§ 495. Consent of candidate to be filed

The written consent of each candidate must be filed with his nomination petition.

1. Consent. The consent must contain a statement over the signature of the candidate that he will accept the nomination. The statement may be printed as a part of the nomination petition.

2. Single filing sufficient. A candidate need file only one consent. The consent is valid even though it may be part of a nomination petition which is void.

§ 496. Review and challenge of petitions

1. Review. On presentation of a nomination petition, the Secretary of State shall review it and, if the petition contains the required number of certified signatures and is properly completed, he shall accept it and file it.

2. Challenges. The procedure for a challenge of the validity of a nomination petition shall be as follows.

A. Only a registered voter residing in the electoral district of the candidate concerned may challenge the validity of a candidate's nomination petition. The Secretary of State shall have received the challenge in writing, setting forth his reasons not later than 5 p.m. on the 7th day after the primary election.

B. Within 10 days after the final date for filing of challenges, the Secretary of State shall hold a public hearing on any challenge properly filed, after due notice of the hearing to the candidate and to the challenger. The burden shall be upon the challenger to provide evidence to invalidate the petition.

C. The Secretary of State shall rule on a challenge within 10 days after the completion of the hearing described in paragraph B.

D. A challenger or a candidate may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action shall be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80B, except as modified by this section. This action shall be commenced within 5 days of the date of the decision of the Secretary of State and shall be tried, without a jury, within 15 days of the date of this decision. Upon timely application, anyone shall be permitted to intervene in this action when the applicant claims an interest relating to the subject matter of the petition, unless the applicant's interest is adequately represented by existing parties. The court shall issue its written decision containing its findings of fact and setting forth the reasons for such decision within 30 days of the commencement of the trial or within 45 days of the date of the decision of the Secretary of State, if there is no trial.

E. Any aggrieved party may take an appeal, on question of law, from the decision of the Superior Court by filing a notice of appeal within 3 days of this decision. The appellant shall file the required number of copies of the record with the clerk within 3 days after filing notice of appeal. After filing of a notice of appeal, the parties shall have 10 days in which to file briefs with the clerk of courts. As soon as the records and briefs have been filed, the court shall consider the case forthwith. The court shall issue its decision within 30 days of the date of the decision of the Superior Court.

§ 497. Candidates certified by the Secretary of State

The Secretary of State shall certify the nomination of each person nominated through the nomination petition process forthwith by mail.

STATEMENT OF FACT

The purpose of this bill is to revise the petitioning process by establishing certification on the local level by the registrar. By implementing this procedure much of the controversy surrounding the petitioning process every year will be remedied, consequently insuring fewer challenges. With the certification of each signature, a reduction in the required number of signatures is also necessary to create an equitable situation whereby an equivalent amount of effort will be needed to be nominated as in previous nominating processes. Along with these changes other revisions have been introduced which will lend uniformity and consistency to both petitioning processes.