

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 1157**

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H. P. 948

House of Representatives, March 22, 1977

On Motion of Mr. Curran of South Portland referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Masterton of Cape Elizabeth.

Cosponsors: Mr. Birt of East Millinocket, Mrs. Najarian of Portland, Mr. Kelleher of Bangor.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**RESOLUTION, Proposing an Amendment to the Constitution to Revise the Legislative Apportionment Procedure and to Remove the Supreme Judicial Court as the final Apportionment Agent.**

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**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, Art. IV, Pt. 1st, § 2,** as last amended by CR 1975, c. 5, is repealed and the following enacted in its place:

**Section 2. Method of Legislative apportionment.** The House of Representatives shall consist of one hundred and fifty-one members, to be elected by the qualified electors, and hold their office two years from the day next preceding the first Wednesday after the first Tuesday in January following the general election. The Legislature which convenes in 1982 and every tenth year thereafter shall cause the State to be divided into districts for the choice of one Representative for each district. The number of Representatives shall be divided into the number of inhabitants of the State according to the latest Federal Decennial Census to determine a mean population figure for each Representative District. Each Representative District shall be formed of contiguous and compact territory and shall cross political subdivision lines the least number of times necessary to establish as nearly as practicable equally populated districts. Whenever the population of a municipality entitles it to more than one district, all whole districts shall be drawn within municipal boundaries. Any population remainder within the municipality shall be included in a district drawn to cross the municipal boundary and to include the

population of a part or a whole contiguous municipality or whole contiguous municipalities insofar as practicable or contiguous unorganized territory.

Constitution, Art. IV, Pt. 1st, § 3, as last repealed and replaced by CR 1975, c. 1, is repealed and the following enacted in its place:

Section 3. Apportionment plan of commission. In 1983 and every tenth year thereafter, the apportionment plan of the commission established under Article IV, Part Third, Section 1-A shall be submitted to the Clerk of the House no later than three legislative days after the convening of the first regular session of the Legislature. The Legislature shall enact the submitted plan of the commission or a plan of its own by a vote of two-thirds of the members of each House within 75 legislative days after the plan of the commission is submitted. Such action shall be subject to the Governor's approval as provided in Article IV, Part Third, Section 2.

In the event the Legislature fails to enact a plan within 78 legislative days after the convening of the first regular session, the commission plan shall be deemed enacted.

The Supreme Judicial Court shall have original jurisdiction over any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group thereof. Such challenge shall be submitted within thirty calendar days of enactment. If any challenge is sustained, the commission shall submit to the first regular or a special session of the Legislature required to enact apportionment, within sixty days, a new or revised apportionment plan for enactment.

Constitution, Art. IV, Pt. 2nd, § 2 is repealed and the following enacted in its place:

Section 2. Senate apportionment procedure. The Legislature which shall convene in 1982 and every tenth year thereafter shall cause the State to be divided into districts for the choice of a Senator from each district, using the same method as provided in Article IV, Part First, Section 2, for apportionment of Representative Districts.

In 1983 and every tenth year thereafter, the apportionment plan of the commission established under Article IV, Part Third, Section 1-A, shall be submitted to the Secretary of the Senate no later than three legislative days after the convening of the first regular session of the Legislature. The Legislature shall enact the submitted plan of the commission or a plan of its own by a vote of two-thirds of the members of each House, within seventy-five legislative days after the plan of the commission is submitted. Such action shall be subject to the Governor's approval as provided in Article IV, Part Third, Section 2.

In the event the Legislature fails to enact a plan within seventy-eight legislative days after the convening of the first regular session, the commission plan shall be deemed enacted.

The Supreme Judicial Court shall have original jurisdiction over any challenge to an apportionment law enacted by the Legislature, as registered by

any citizen or group thereof. If any challenge is sustained, the commission shall submit to the first regular or a special session of the Legislature required to enact apportionment, within sixty days, a new or revised apportionment plan for enactment.

Constitution, Art. IV, Pt. 3rd, § 1-A, as enacted by CR 1975, c. 1, is repealed and the following enacted in its place :

**Section 1-A. Apportionment commission.** In 1982 and every tenth year thereafter, the Legislature shall establish, within the first three legislative days after the convening of the Legislature, a commission to develop in accordance with the requirements of this Constitution, a plan for apportioning the House of Representatives and the Senate.

The commission shall be composed of three members from the political party holding the largest number of seats in the House of Representatives, who shall be appointed by the Speaker; three members from the political party holding the majority of the remainder of the seats in the House of Representatives, who shall be appointed by the floor leader of that party in the House; two members of the party holding the largest number of seats in the Senate, who shall be appointed by the President of the Senate; two members of the political party holding the majority of the remainder of the seats in the Senate, to be appointed by the floor leader of that party in the Senate, the chairperson of each of the two major political parties in the State or their designated representatives; and three members from the public generally, one to be selected by each group of members of the commission representing the same political party, and the third to be selected by the other two public members. The Speaker of the House shall be responsible for organizing the commission and shall be chairman pro tempore thereof until a permanent chairman is selected by the commission members from among their own number. No action shall be taken without a quorum of seven being present. The commission shall hold public hearings on any part for apportionment prior to submitting such plan to the Legislature.

Public members of the commission shall receive compensation, as provided by law. All members of the commission shall be reimbursed for actual travel expenses incurred in carrying out the business of the commission. The Legislature which is required to apportion shall appropriate sufficient funds to compensate public members, to provide staff assistance to the commission, to provide travel expenses for all members and to provide for incidental expenses of the commission as needed to carry out its duties under this Constitution.

Whenever a vacancy occurs on the commission, it shall be the responsibility of the Speaker of the House of Representatives and the President of the Senate to oversee the selection of a replacement pursuant to this section.

**Constitutional referendum procedure; form of question; effective date.** Resolved: That the city aldermen, town selectmen and plantation assessors of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at the next general election in the month of November or special

statewide election on the Tuesday following the first Monday of November following the passage of this resolution, to vote upon the ratification of the amendments proposed in this resolution by voting upon the following question:

“Shall the Constitution be amended as proposed by a resolution of the Legislature to revise the legislative apportionment procedure and to remove the Supreme Judicial Court as the final apportionment agent.”

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within the corresponding square below the words “Yes” or “No.” The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns, and, if it appears that a majority of the legal votes are in favor of the amendments, the Governor shall proclaim that fact without delay and the amendments shall become part of the Constitution on the date of the proclamation.

**Secretary of State shall prepare ballots. Resolved:** That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purpose of this referendum.

#### STATEMENT OF FACT

This Constitutional amendment makes the following changes in the present legislative apportionment procedure:

1. Provides a period of approximately one year in which the apportionment plans for both the House and Senate are to be prepared, thus taking the pressure off the commission drawing the districts;
2. Provides deadlines for submission to and enactment by the Legislature that are realistic in terms of session time limits;
3. Removes the Supreme Judicial Court as the final apportionment agent, leaving the court to judge fairly citizen challenges to apportionment plans;
4. Designates the commission and the respective legislative bodies as the sole apportionment agencies;
5. Provides an opportunity to create an alternate legislative plan if the commission plan is not acceptable; and
6. Provides a mechanism for filling vacancies on the commission, especially in the event that Legislators serving on the commission are not members of the enacting Legislature.