

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1872

H. P. 1692

House of Representatives, June 9, 1977

Reported by Mrs. Durgin from Committee on Election Laws. Sent up for concurrence and ordered printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

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Sec. 1. 21 MRSA c. 15, as amended, is repealed and the following enacted in its place: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

1. Nomination by primary election. The nomination of a candidate by a party for any federal, state or county office shall be made by primary election, as provided in this chapter.

2. Exceptions. This chapter does not apply to:

- A. Nominations for Presidential Electors;
- B. Nominations to fill vacancies, as provided in chapter 37; and
- C. Nominations by nomination petition as provided in chapter 17.

3. 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 federal, state or county office accepts nomination to fill a vacancy, the first nomination is thereby vacated.

§ 443. Qualification for state and county office

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

§ 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 in the candidate's municipality of residence shall certify to that fact upon the petition.

§ 445. Petition requirements

A primary petition shall be on a form provided by the Secretary of State and is governed by the following provisions.

1. Content. A primary petition 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 shall contain the term of office sought by the candidate.
2. By whom signed. A primary petition 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 sign his name in such a manner as to satisfy the registrar of his municipality that he is a registered voter and enrolled in the party named on the petition. Either the voter or the circulator of the petition shall print the voter's name.
4. Residence. The voter or the circulator of the petition shall write or print the voter's street address and 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 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. A primary petition shall be verified and certified as follows:

A. The circulator of a primary petition shall verify by oath or affirmation before a Notary Public, Justice of the Peace or other person authorized by law to administer oaths or affirmations 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 enrolled in the party named in the petition and is a resident of the electoral district named in the petition.

B. The registrar of each municipality concerned shall certify which names on a petition appear on the voting list of that municipality as registered and enrolled voters and shall strike out any names which do not satisfy subsection 3.

8. When filed. A primary petition shall 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 or names void. A primary petition which does not meet the requirements of this section is void. If a voter or a circulator fails to comply with this section in signing or printing the voter's name and address, that voter's 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 shall 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. This 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 names and is properly completed, shall accept and file it.

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

A. Only a registered voter residing in the electoral district of the candidate concerned may file such a challenge. The challenge shall be in writing and shall set forth the reasons for the challenge. The challenge shall be filed in the office of the Secretary of State by or before 5:00 p.m. on the 5th day after the final date for filing petitions under section 445, subsection 8.

B. Within 7 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 or any names upon the petitions.

C. The Secretary of State shall rule on the validity of any challenge within 5 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 10 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 a written decision containing its findings of fact and conclusions of law and setting forth the reasons for such decision within 20 days of the date of the decision of the Secretary of State unless the trial extends this date.

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 that 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 4 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 14 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. Write-in candidates

1. Minimum votes. When no person has qualified as a candidate for nomination by primary election for an office by filing a primary petition and consent as provided by sections 445 and 446, a person who fulfills the other qualifications prescribed by section 444, but whose name is not on the ballot, may be nominated at the primary election by receiving a number of valid write-in votes, as provided in section 921, subsection 2, equal to at least twice the number of signatures required under section 445, subsection 5, on a primary petition for a candidate for that office. If more than one such person receives this minimum number of write-in votes for an office, the person receiving the greater or greatest number of votes shall be nominated.

2. Acceptance required. Within 7 days after receiving notice of his nomination, a write-in candidate shall file a written acceptance with the Secretary of State. If such a candidate 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 forthwith certify by mail the nomination of each person nominated by the primary election.

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 shall be made by nomination petition, as provided in this chapter. 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 and county office

A candidate for the office of Presidential Elector or for any county office must be a resident of and a voter in the electoral division he seeks to represent on the date established for filing nomination petitions in the year he seeks election and must maintain this voting residence during his term of office.

§ 493. Declaration of candidacy

A person who seeks nomination by petition shall 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 shall 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 shall result in that person's ineligibility to be a candidate for election to that office in that calendar year. That person shall also file a nomination petition, as provided in section 494.

§ 494. Petition requirements

A nomination petition shall be on a form provided by the Secretary of State and 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. 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.** A nomination petition 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 sign his name in such a manner as to satisfy the registrar of his municipality that he is a registered voter. Either the voter or the circulator of the petition shall print the voter's name.

4. **Residence.** The voter or the circulator of the petition shall write or print the voter's street address and municipality of registration. Ditto marks are permitted for municipality of registration only.

5. **Number of signatures required.** Nomination petitions must be signed by the following numbers of voters:

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

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

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

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

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

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

7. Certification of petitions. A nomination petition shall be verified and certified as follows.

A. The circulator of a nomination petition shall verify by oath or affirmation before a Notary Public, Justice of the Peace or other person authorized by law to administer oaths 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 person is a resident of the electoral district named in the petition.

B. The registrar of each municipality concerned shall certify which names on a petition appear on the voting list of that municipality as registered voters and shall strike out any names which do not satisfy subsection 3.

8. Submission to registrar. The petition shall be submitted to the registrar of each municipality concerned for certification according to subsection 7, paragraph B, by or before 5 p.m. on the 5th day before the date of the primary election.

9. Filed with Secretary of State. The petition shall be filed in the office of the Secretary of State by or before 5 p.m. on the date of the primary election in the election year in which it is to be used.

10. Petition void. A nomination petition which does not meet the requirements of this section is void. If a voter or a circulator fails to comply with this section in signing or printing the voter's name and address, that voter's name may not be counted, but the petition is otherwise valid.

§ 495. Consent of candidate to be filed

The written consent of each candidate shall 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 names and is properly completed, shall accept and file it.

2. **Challenges.** The procedure for a challenge of the validity of a nomination petition or of names upon a petition shall be as provided in this subsection.

A. Only a registered voter residing in the electoral district of the candidate concerned may file such a challenge. The challenge shall be in writing and shall set forth the reasons for the challenge. The challenge shall be filed in the office of the Secretary of State by or before 5:00 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 petitions or any names upon the petitions.

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 conclusions of law 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 questions of law, from the decision of the Superior Court by filing a notice of appeal within 3 days of that 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 forthwith certify by mail the nomination of each person nominated by nomination petition.

STATEMENT OF FACT

The purpose of this new draft 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.

The new draft makes clarifications of language and corrections of some technical errors in the bill.