

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 438

H. P. 395

House of Representatives, January 26, 1981

Referred to the Committee on Election Laws. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Kelleher of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Change the Date of the Primary Election to the First Thursday after Labor Day.

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

Sec. 1. 21 MRSA § 444, 2nd sentence, as repealed and replaced by PL 1977, c. 425, § 1, is amended to read:

He must be enrolled, on or before ~~April~~ **July** 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.

Sec. 2. 21 MRSA § 445, sub-§ 6, as repealed and replaced by PL 1977, c. 425, § 1, is amended to read:

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

Sec. 3. 21 MRSA § 445, sub-§ 8, as repealed and replaced by PL 1977, c. 425, § 1, is amended to read:

8. When filed. A primary petition shall be filed ~~in with the office~~ **Department** of the Secretary of State by or before 5 p.m. on ~~April~~ **July** 1st of the election year in which it is to be used.

Sec. 4. 21 MRSA § 448, as repealed and replaced by PL 1977, c. 425, § 1, is amended to read:

§ 448. Time of election

The primary election shall be held on the ~~2nd~~ first Tuesday ~~of June~~ after Labor Day of each general election year.

Sec. 5. 21 MRSA § 449, last sentence, as repealed and replaced by PL 1977, c. 425, § 1, is amended to read:

A primary election shall be conducted as to each party as nearly as practicable the same as the general election **unless otherwise specified herein.**

Sec. 6. 21 MRSA § 451-A is enacted to read:

§ 451-A. Acceptance by write-in candidate required in primary election

Within 3 days after receiving notice of his nomination, a write-in candidate must file a written acceptance with the Secretary of State. If he fails to do so, he becomes disqualified and his name must not be printed on the general election ballot.

Sec. 7. 21 MRSA § 631, as repealed and replaced by PL 1977, c. 430, § 1, is amended by inserting before subsection 1 a new paragraph to read:

Notwithstanding any of the following provisions, no registrar shall accept registrations on the first Monday in September.

Sec. 8. 21 MRSA § 961-A is enacted to read:

§ 961-A. Preparation of primary election results

As soon as the results of the primary election have been declared, the election return must be prepared.

1. **Town.** In a town which has one voting district, the clerk shall prepare the primary election return as mandated by section 961, subsection 1. Any town whose copy of the return has not been mailed and postmarked within 72 hours after 9 p.m. on election day shall be assessed \$100 for each late day, or part thereof, until the return is mailed and postmarked.

2. **City or certain town.** In a city, or in a town which has more than one voting district, the ward clerk shall prepare the primary election return as mandated by section 961, subsection 2. Any city or town whose copy of the return has not been mailed and postmarked within 72 hours after 9 p.m. on election day shall be assessed \$100 for each late day, or part thereof, until the return is mailed and postmarked.

3. **Clerk to record.** The clerk shall record the original election return within 3 days after election day.

Sec. 9. 21 MRSA § 962 is amended to read:

§ 962. Lost or not delivered

If an election return is not delivered to the Secretary of State within 7 days after

an election or 5 days after a primary election, he shall send a messenger to the municipality concerned, and the clerk shall give him a certified copy of the return.

Sec. 10. 21 MRSA § 1091, 2nd sentence, as amended by PL 1971, c. 2, is further amended to read:

Within 10 days after a primary election, the registrar shall report to the Secretary of State the total number of voters in each voting district of the municipality and the number of voters enrolled in each political party in each voting district of the municipality at the close of the polls on election day.

Sec. 11. 21 MRSA § 1151, 1st sentence, as amended by PL 1969, c. 35, § 8, is further amended to read:

On the written application of a candidate in any election within 7 days after election day or within 3 days after a primary election, the clerk shall permit him or his counsel to inspect the ballots and checklists under proper protective regulations.

Sec. 12. 21 MRSA § 1152-A is enacted to read:

§ 1152-A. Recount for primary election

On the written application of a losing candidate in a primary election not less than 10 days after the election, the Secretary of State shall permit him or his counsel to recount the ballots under proper protective regulation and supervision, subject to the following provisions.

1. **Vote shows proper percentage of difference.** The percentage of difference between the combined vote received by the losing candidate and the nearest winning candidate, as shown by the initial published returns, must meet the following requirements.

A. If the combined vote is 1,000 or less, the percentage of difference between the vote must be 5% or less of the total vote.

B. If the combined vote is 1,001 to 5,000, the percentage of difference between the vote must be 4% or less of the total vote.

C. If the combined vote is 5,001 to 10,000, the percentage of difference between the vote must be 3% or less of the total vote.

D. If the combined vote is 10,001 to 25,000, the percentage of difference between the vote must be 2% or less of the total vote.

E. If the combined vote is 25,001 to 50,000, the percentage of difference between the vote must be 1 1/2% or less of the total vote.

F. If the combined vote is 50,001 to 100,000, the percentage of difference between the vote must be 1% or less of the total vote.

G. If the combined vote is 100,001 or over, the percentage of difference between the vote must be $\frac{1}{2}$ of 1% or less of the total vote.

2. Recount on deposit. A losing candidate may request a recount upon making a deposit with the Secretary of State in the following amounts:

A. If the combined vote is 1,000 or less and the percentage of difference between the vote for the 2 candidates is more than 5%, \$150;

B. If the combined vote is 1,001 to 5,000 and the percentage of difference between the vote for the 2 candidates is more than 4%, \$250;

C. If the combined vote is 5,001 to 10,000 and the percentage of difference between the 2 candidates is more than 3%, \$400;

D. If the combined vote is 10,001 to 25,000 and the percentage of difference between the vote for the 2 candidates is more than 2%, \$750;

E. If the combined vote is 25,001 to 50,000 and the percentage of difference between the vote for the 2 candidates is more than $1\frac{1}{2}\%$, \$1,250;

F. If the combined vote is 50,001 to 100,000 and the percentage of difference between the vote for the 2 candidates is more than 1%, \$1,750; or

G. If the combined vote is 100,001 or over and the percentage of difference between the vote for the 2 candidates is more than $\frac{1}{2}$ of 1%, \$2,500.

The deposit made by the candidate requesting the recount shall be forfeited to the State in the event that the recount fails to change the result of the election. If the recount revises the election, the deposit shall be returned to the candidate requesting the recount.

3. Ballots and checklists recalled. On receipt of the application, the Secretary of State shall recall all ballots and checklists from the clerk of each municipality concerned. The clerk shall return or release them to him as soon as any pending ballot inspection has been made.

A. On request of the Secretary of State, each municipal clerk or his designated agent, unless otherwise instructed by the Secretary of State, shall deliver the ballots and checklists to a ballot depository located at the county seat, chosen by the county commissioners and approved by the Secretary of State as to size and security.

B. All ballots and checklists must be delivered to the ballot depository within the time limits set up by the Secretary of State. Any municipality which fails to meet the time limitation shall be fined \$100 for each late day or part thereof. If requested by the clerk, local and county law enforcement agencies shall assist in delivering ballots and election materials to the ballot depository.

C. The county commissioners of each county shall be responsible for having at least one person at the ballot depository at all times during the days set forth by the Secretary of State for the business hours of 8 a.m. to 5 p.m. This person shall

be responsible for accepting and storing ballots and checklists. This designated person also shall furnish each clerk or his agent with a ballot receipt stating the time when the materials were delivered. The Secretary of State shall furnish the county commissioners with the appropriate receipts.

D. The Secretary of State shall authorize certain agents to collect the ballots and checklists from the ballot depositories. The agent shall deliver an itemized receipt for the election materials he collects to the county commissioners or their agent at the ballot depository.

E. At the request of the Secretary of State, the State Police and the county sheriff's departments shall be available to assist in the collection and transportation of any election materials.

4. Note of recount. The Secretary of State shall send written notice of the recount to the candidates for the office in question, stating the time and place of the recount.

5. Time of recount. The recount must be held as soon as reasonably possible at such a time and place as designated by the Secretary of State.

6. Conduct of recount. The Secretary of State shall be charged with promulgating rules and regulations to govern the conduct of the recount.

7. Disputed ballots segregated. At the recount, the Secretary of State shall segregate any disputed ballots.

8. Determination of disputed ballots. If there are enough disputed ballots to affect the result of the election, the Secretary of State shall so inform the Commission on Governmental Ethics and Election Practices.

9. Mistake in ballot count. If it is found that there was a mistake made in counting the ballots on election day, the Secretary of State shall submit a corrected tabulation to the Governor.

10. Package resealed and marked. After the recount, the Secretary of State shall reseat the packages of ballots and checklists, and shall note the fact and date of the recount on them. If there is an appeal to determine the validity of the disputed ballots, the Secretary of State shall keep them until needed by the Commission on Governmental Ethics and Election Practices.

11. Withdrawal from recount. A losing candidate who requests and receives a recount may withdraw from the recount at any time while the recount shows him to be the loser. If during the recount the losing candidate shall overtake or pass the winning candidate, the losing candidate shall not be permitted to withdraw and the recount shall be completed.

12. Additional powers. Notwithstanding any other provisions of Maine law, the Secretary of State may hire any personnel to serve at his pleasure, institute any procedure and make any changes necessary to facilitate the completion of any ballot collection, vote tabulation, inspection, recount, ballot printing or any other

aspect of the election process to insure the timely preparation and success of the general election.

Sec. 13. 21 MRSA § 1422, 2nd sentence, as repealed and replaced by PL 1975, c. 759, § 3, is amended to read:

Any candidate for such office may appeal to the commission, in writing, not more than 5 days after completion of the recount proceedings, except an appeal to the commission with regard to a primary election must be made, in writing, not more than 24 hours after the completion of the recount proceedings.

STATEMENT OF FACT

This bill is intended to shorten the time of political campaigns to the benefit of the candidate and the constituency.