

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 5

6  
7 H.P. 9

House of Representatives, January 5, 1983

8 Reference to the Committee on Election Laws suggested and 1,600  
9 ordered printed.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Jalbert of Lewiston.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Change the Date of the Primary  
18 Election to the First Tuesday after  
19 Labor Day.  
20

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

23 Sec. 1. 21 MRSA §444, as repealed and replaced  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

25 §444. Qualification of candidate for primary nomina-  
26 tion

27 A candidate for nomination by primary election  
28 must become qualified by filing a primary petition  
29 and consent as provided in sections 445 and 446. He  
30 must be enrolled, on or before ~~April~~ July 1st, in the  
31 party named in the petition, and must be eligible to  
32 file a petition as a candidate for nomination by pri-  
33 mary election as provided in section 134, subsection

1 3. The registrar in the candidate's municipality of  
2 residence shall certify to that fact upon the peti-  
3 tion.

4 Sec. 2. 21 MRSA §445, sub-§6, as repealed and  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

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

9 Sec. 3. 21 MRSA §445, sub-§8, as repealed and  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

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

15 Sec. 4. 21 MRSA §448, as repealed and replaced  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

17 §448. Time of election

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

21 Sec. 5. 21 MRSA §449, as repealed and replaced  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

23 §449. Primary as separate election

24 A primary election is deemed to be a separate  
25 election for each party which takes part in it. This  
26 includes the duties of public officials in notifying  
27 the election, providing forms and ballots, keeping  
28 records and any other matter necessary to effect the  
29 purpose of a primary election. A primary election  
30 shall be conducted as to each party as nearly as  
31 practicable the same as the general election unless  
32 otherwise specified herein.

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

34 §451-A. Acceptance by write-in candidate required in  
35 primary election

1           Within 3 days after receiving notice of his nom-  
2 ination, a write-in candidate must file a written ac-  
3 ceptance with the Secretary of State. If he fails to  
4 do so, he becomes disqualified and his name must not  
5 be printed on the general election ballot.

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

9           Notwithstanding any of the following provisions,  
10 no registrar may accept registrations on the first  
11 Monday in September.

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

13           §961-A. Preparation of primary election results

14           As soon as the results of the primary election  
15 have been declared, the election return must be pre-  
16 pared.

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

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

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

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

37           §962. Lost or not delivered

1 If an election return is not delivered to the  
2 Secretary of State within 7 days after an election or  
3 5 days after a primary election, he shall send a mes-  
4 senger to the municipality concerned, and the clerk  
5 shall give him a certified copy of the return.

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

8 §1091. Reports of registration and enrollment

9 Within 10 days after a general election, the  
10 registrar shall send a report to the Secretary of  
11 State stating the number of voters in each voting  
12 district of the municipality at the close of the  
13 polls on election day. Within 10 days after a pri-  
14 mary election, the registrar shall report to the  
15 Secretary of State the total number of voters in each  
16 voting district of the municipality and the number of  
17 voters enrolled in each political party in each  
18 voting district of the municipality at the close of  
19 the polls on election day.

20 Sec. 11. 21 MRSA §1151, first ¶, as amended by  
21 PL 1969, c. 204, §1, is further amended to read:

22 On the written application of a candidate in any  
23 election within 7 days after election day or within 3  
24 days after a primary election, the clerk shall permit  
25 him or his counsel to inspect the ballots and  
26 checklists under proper protective regulations. The  
27 purpose of such an inspection shall be to provide  
28 factual basis for a request for recount. Such inspec-  
29 tion must be of reasonable duration and may not be  
30 used for harassment, assessment of ballot splitting,  
31 or other purpose not related to the determination of  
32 whether ballots were counted in a proper and lawful  
33 manner.

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

35 §1152-A. Recount for primary election

36 On the written application of a losing candidate  
37 in a primary election not less than 10 days after the  
38 election, the Secretary of State shall permit him or  
39 his counsel to recount the ballots under proper pro-

1 protective regulation and supervision, subject to the  
2 following provisions.

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

8 A. If the combined vote is 1,000 or less, the  
9 percentage of difference between the vote must be  
10 5% or less of the total vote.

11 B. If the combined vote is 1,001 to 5,000, the  
12 percentage of difference between the vote must be  
13 4% or less of the total vote.

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

17 D. If the combined vote is 10,001 to 25,000, the  
18 percentage of difference between the vote must be  
19 2% or less of the total vote.

20 E. If the combined vote is 25,001 to 50,000, the  
21 percentage of difference between the vote must be  
22 1 1/2% or less of the total vote.

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

26 G. If the combined vote is 100,001 or over, the  
27 percentage of difference between the vote must be  
28 1/2 of 1% or less of the total vote.

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

32 A. If the combined vote is 1,000 or less and the  
33 percentage of difference between the vote for the  
34 2 candidates is more than 5%, \$150;

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

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

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

7 E. If the combined vote is 25,001 to 50,000 and  
8 the percentage of difference between the vote for  
9 the 2 candidates is more than 1 1/2%, \$1250;

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

13 G. If the combined vote is 100,001 or over and  
14 the percentage of difference between the vote for  
15 the 2 candidates is more than 1/2 of 1%, \$2,500.

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

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

28 A. On request of the Secretary of State, each  
29 municipal clerk or his designated agent, unless  
30 otherwise instructed by the Secretary of State,  
31 shall deliver the ballots and checklists to a  
32 ballot depository located at the county seat,  
33 chosen by the county commissioners and approved  
34 by the Secretary of State as to size and secur-  
35 ity.

36 B. All ballots and checklists must be delivered  
37 to the ballot depository within the time limits  
38 set up by the Secretary of State. Any municipal-  
39 ity which fails to meet the time limitation shall

1 be fined \$100 for each late day or part thereof.  
2 If requested by the clerk, local and county law  
3 enforcement agencies shall assist delivering bal-  
4 lots and election materials to the ballot deposi-  
5 tory.

6 C. The county commissioners of each county shall  
7 be responsible for having at least one person at  
8 the ballot depository at all times during the  
9 days set forth by the Secretary of State for the  
10 business hours of 8 a.m. to 5 p.m. This person  
11 shall be responsible for accepting and storing  
12 ballots and checklists. This designated person  
13 also shall furnish each clerk or his agent with a  
14 ballot receipt stating the time when the mate-  
15 rials were delivered. The Secretary of State  
16 shall furnish the county commissioners with the  
17 appropriate receipts.

18 D. The Secretary of State shall authorize cer-  
19 tain agents to collect the ballots and checklists  
20 from the ballot depositories. The agent shall  
21 deliver an itemized receipt for the election  
22 materials he collects to the county commissioners  
23 or their agent at the ballot depository.

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

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

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

35 6. Conduct of recount. The Secretary of State  
36 shall be charged with promulgating rules to govern  
37 the conduct of the recount.

38 7. Dispute ballots segregated. At the recount,  
39 the Secretary of State shall segregate any disputed  
40 ballots.

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

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

10           10. Package resealed and marked. After the  
11 recount, the Secretary of State shall reseal the  
12 packages of ballots and checklists, and shall note  
13 the fact and date of the recount on them. If there  
14 is an appeal to determine the validity of the dis-  
15 puted ballots, the Secretary of State shall keep them  
16 until needed by the Commission on Governmental Ethics  
17 and Election Practices.

18           11. Withdrawal from recount. A losing candidate  
19 who requests and receives a recount may withdraw from  
20 the recount at any time while the recount shows him  
21 to be the loser. If during the recount the losing  
22 candidate shall overtake or pass the winning candi-  
23 date, the losing candidate shall not be permitted to  
24 withdraw and the recount shall be completed.

25           12. Additional powers. Notwithstanding any  
26 other provisions of Maine law, the Secretary of State  
27 may hire any personnel to serve at his pleasure,  
28 institute any procedure and make any changes neces-  
29 sary to facilitate the completion of any ballot col-  
30 lection, vote tabulation, inspection, recount, ballot  
31 printing or any other aspect of the election process  
32 to insure the timely preparation and success of the  
33 general election.

34           Sec. 13. 21 MRSA §1422, as amended by PL 1977,  
35 c.496, §32, is further amended to read:

36           §1422. Appeal to commission

37           If, after the recount proceeding provided under  
38 this Title, there are challenged or disputed ballots,  
39 or both, which affect the result of the primary, gen-  
40 eral or special election involving county, state or

1 federal office, the commission shall make findings of  
2 fact and opinion on the validity of such ballots.  
3 Any candidate for such office may appeal to the com-  
4 mission, in writing, not more than 5 days after com-  
5 pletion of the recount proceedings,except an appeal  
6 to the commission with regard to a primary election  
7 must be made, in writing, not more than 24 hours  
8 after the completion of the recount proceedings.  
9 Such written appeal shall set forth in detail the  
10 grounds for the appeal.

11

#### STATEMENT OF FACT

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

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