

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 561

6
7 H.P. 459

House of Representatives, February 7, 1983

8 Referred to the Committee on Election Laws, sent up for concurrence and
9 ordered printed.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Tuttle of Sanford.

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.
19

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

22 Sec. 1. 21 MRSA §444, as repealed and replaced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

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

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

1 residence shall certify to that fact upon the peti-
2 tion.

3 Sec. 2. 21 MRSA §445, sub-§6, as repealed and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

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

8 Sec. 3. 21 MRSA §445, sub-§8, as repealed and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

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

14 Sec. 4. 21 MRSA §448, as repealed and replaced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

16 §448. Time of election

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

20 Sec. 5. 21 MRSA §449, as repealed and replaced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

22 §449. Primary as separate election

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

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

33 §451-A. Acceptance by write-in candidate required in
34 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 pective 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.

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 reseat 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 The purpose of this bill is to change the date of
13 the primary election to the first Tuesday after Labor
14 Day.

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