

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1231

6
7 H.P. 950

House of Representatives, March 17, 1983

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

10 EDWIN H. PERT, Clerk

Presented by Representative Diamond of Bangor.

Cosponsors: Representative Smith of Island Falls, Representative
11 Michaud of E. Millinocket and Senator Carpenter of Aroostook.

12 STATE OF MAINE
13

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

17 AN ACT to Amend the Election Laws.
18

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

21 Sec. 1. 21 MRSA §447, sub-§2, ¶E, as enacted by
22 PL 1977, c. 425, §1, is repealed and the following
23 enacted in its place:

24 E. Any aggrieved party may take an appeal, on
25 questions of law, from the decision of the Supe-
26 rior Court by filing a notice of appeal within 3
27 days of that decision. The record on appeal
28 shall be transmitted to the Law Court within 3
29 days after notice of appeal is filed. After
30 filing notice of appeal, the parties shall have 4
31 days in which to file briefs and appendices with
32 the clerk of courts. As soon as the record and
33 briefs have been filed, the court shall consider
34 the case forthwith. The court shall issue its

1 decision within 14 days of the date of the deci-
2 sion of the Superior Court.

3 Sec. 2. 21 MRSA §494, sub-§2, as repealed and
4 replaced by PL 1977, c. 425, §2, is amended to read:

5 2. By whom signed. A nomination petition may be
6 signed only by voters of the electoral division which
7 is to make the nomination. Other signatures are void,
8 except that nomination petitions for Presidential
9 Electors may be signed by any Maine voter.

10 Sec. 3. 21 MRSA §494, sub-§8, as enacted by PL
11 1977, c. 425, §2, is repealed.

12 Sec. 4. 21 MRSA §494, sub-§9, as amended by PL
13 1981, c. 301, §4, is repealed and the following
14 enacted in its place:

15 9. Filed with the Secretary of State. The peti-
16 tion shall be filed in the following manner:

17 A. A petition for nomination as a candidate for
18 the office Presidential Elector shall be filed in
19 the office of the Secretary of State by 5 p.m.
20 on July 1st of the election year in which it is
21 to be used.

22 B. A petition for nomination as a candidate for
23 a federal, state or county office, except for
24 Presidential Elector, shall be filed in the
25 office of the Secretary of State, by 5 p.m. on
26 April 1st of the election year in which it is to
27 be used.

28 Sec. 5. 21 MRSA §496, sub-§2, ¶¶A to D, as
29 enacted by PL 1977, c. 425, §2, is amended to read:

30 A. Only a registered voter residing in the elec-
31 toral district of the candidate concerned may
32 file such a challenge. The challenge shall be in
33 writing and shall set forth the reasons for the
34 challenge. The challenge shall be filed in the
35 office of the Secretary of State by ~~or before~~
36 5-00 5 p.m. on the 7~~th~~ 5th day after the primary
37 election filing date for filing petitions under
38 section 494, subsection 9.

1 B. Within ~~10~~ 7 days after the final date for
2 filing of challenges, the Secretary of State
3 shall hold a public hearing on any challenge
4 properly filed, after due notice of the hearing
5 to the candidate and to the challenger. The bur-
6 den shall be upon the challenger to provide evi-
7 dence to invalidate the petitions or any names
8 upon the petitions.

9 C. The Secretary of State shall rule on a chal-
10 lenge within ~~10~~ 5 days after the completion of
11 the hearing described in paragraph B.

12 D. A challenger or a candidate may appeal the
13 decision of the Secretary of State by commencing
14 an action in the Superior Court. This action
15 shall be conducted in accordance with the Maine
16 Rules of Civil Procedure, Rule 80B, except as
17 modified by this section. This action shall be
18 commenced within 5 days of the date of the deci-
19 sion of the Secretary of State and shall be
20 tried, without a jury, within ~~15~~ 10 days of the
21 date of this decision. Upon timely application,
22 anyone shall be permitted to intervene in this
23 action when the applicant claims an interest
24 relating to the subject matter of the petition,
25 unless the applicant's interest is adequately
26 represented by existing parties. The court shall
27 issue its written decision containing its find-
28 ings of fact and conclusions of law and setting
29 forth the reasons for such decision within ~~30~~ 20
30 days of the ~~commencement of the trial or within~~
31 ~~45 days of the~~ date of the decision of the Secre-
32 tary of State ~~if there is no trial~~.

33 Sec. 6. 21 MRSA §496, sub-§2, ¶E, as enacted by
34 PL 1977, c. 425, §2, is repealed and the following
35 enacted in its place:

36 E. Any aggrieved party may take an appeal, on
37 questions of law, from the decision of the Supe-
38 rior Court by filing a notice of appeal within 3
39 days of that decision. The record on appeal
40 shall be transmitted to the Law Court within 3
41 days after notice of appeal is filed. After
42 filing notice of appeal, the parties shall have 4
43 days in which to file briefs and appendices with

1 the clerk of courts. As soon as the record and
2 briefs have been filed, the court shall consider
3 the case forthwith. The court shall issue its
4 decision within 14 days of the date of the deci-
5 sion of the Superior Court.

6 Sec. 7. 21 MRSA §1181 sub-§1 is amended to read:

7 1. Vote for presidential candidate construed. A
8 vote for the candidates of any political party for
9 President and Vice-President is a vote for each
10 nominee of the same political party for the Presi-
11 dential Elector Electors nominated by the candidates'
12 political party or by petition.

13 Sec. 8. 21 MRSA §1184, sub-§1-A, as enacted by
14 PL 1969, c. 131, §2, is amended to read:

15 1-A. Presidential Electors. The Presidential
16 Electors at large shall cast their ballots for Presi-
17 dent presidential and Vice-President vice-presiden-
18 tial of the political party which candidates who
19 received the largest number of votes in the State.
20 The Presidential Electors of each congressional dis-
21 trict shall cast their ballots for President Presi-
22 dential and Vice-President vice-presidential of the
23 political party which candidates who received the
24 largest number of votes in each congressional dis-
25 trict.

26 Sec. 9. 21 MRSA §1397, sub-§4, ¶A, as amended by
27 PL 1979, c. 434, §2, is further amended to read:

28 A. Reports shall be filed not later than 5 p.m.
29 on the 7th day before the date on which an elec-
30 tion is held and shall be complete as of the 11th
31 day before such date. The first reports filed in
32 a year in which an election is held shall cover
33 the 6 months immediately preceding the completion
34 date. Other reports shall be complete for the
35 filing period. A filing period is that period of
36 time from one completion date to the next comple-
37 tion date except as provided heretefore for first
38 reports.

39 Sec. 10. 21 MRSA §1397, sub-§4, ¶C, as repealed
40 and replaced by PL 1979, c. 434, §3, is amended to
41 read:

1 C. Reports shall be filed not later than 5 p.m.
2 on the 42nd day after the date on which an elec-
3 tion is held and shall be complete for the filing
4 period as of the 35th day after that date.

5 Sec. 11. 21 MRSA §1398, as amended by PL 1981,
6 c. 351, is further amended by adding after the first
7 paragraph 2 new paragraphs to read:

8 A notice of lateness shall be sent to candidates
9 and treasurers registered with the commission whose
10 reports are not received within 2 days of the filing
11 deadline. That notice shall be sent on the 3rd day
12 following the deadline.

13 A late report filed within 10 days of any dead-
14 line, except a report required to be filed 7 days
15 before an election, shall not be subject to penalty.
16 Reports filed after this grace period are subject to
17 penalties from the original filing deadline.

18 Sec. 12. 21 MRSA §1475-A is enacted to read:

19 §1475-A. Presidential and vice-presidential candi-
20 dates chosen by petition

21 1. Candidate for president; death; withdrawal;
22 disqualification. If a candidate for President who
23 has been nominated by petition, as specified in
24 section 494, subsection 1, paragraph A, dies, with-
25 draws or becomes disqualified, the nomination of the
26 presidential, vice-presidential and Presidential
27 Elector candidates is terminated.

28 2. Candidate for Vice-President; death; with-
29 drawal; disqualification. If a candidate for Vice-
30 President who has been nominated by petition as
31 specified in section 494, subsection 1, paragraph A,
32 dies, withdraws or becomes disqualified, the vacancy
33 may be filled by a new vice-presidential candidate,
34 if the following conditions are met:

35 A. Written resignation is filed with the Secre-
36 tary of State by the previous vice-presidential
37 candidate, if the mental and physical condition
38 of the candidate allows;

1 Sections 1, 5 and 6 shorten the review and chal-
2 lenge process for petitions nominating candidates for
3 office. The time period for each step in the process
4 is made similar to that for the same step in the
5 review and challenge process for appeal of primary
6 election nomination petitions. It is necessary to
7 condense the appeal period in the nomination by peti-
8 tion situation because the filing deadline for Presi-
9 dential Electors is being moved from April 1st to
10 July 1st as outlined in section 3. With that new
11 deadline, the previous longer review and challenge
12 process could not be completed in sufficient time
13 before the November election.

14 Sections 7 and 8 are necessary to clarify the law
15 relating to election of Presidential Electors, by
16 providing for the situation when there are candidates
17 nominated by petition in addition to party candi-
18 dates.

19 Section 9 allows for a more flexible definition
20 of filing period.

21 Section 10 allows a more realistic filing period
22 so that it's completion date is prior to the time of
23 filing.

24 Section 11 requires that the commission notify
25 candidates or treasurers who are late in filing
26 reports. It also allows for a "grace" period for
27 filing which is not subject to penalty. Reports
28 filed after this grace period are subject to the
29 original penalty schedule.

30 Section 12 provides for:

31 1. The termination of the nomination of presi-
32 dential, vice-presidential and Presidential Elector
33 candidates nominated by petition if the presidential
34 candidate dies, withdraws or becomes disqualified;
35 and

36 2. The replacement of a vice-presidential candi-
37 date on a ticket nominated by petition if that candi-
38 date dies, withdraws or becomes disqualified.

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