

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 141

6  
7 H.P. 116

House of Representatives, January 22, 1985

8 Reference to the Committee on Legal Affairs suggested and ordered  
9 printed.

10 EDWIN H. PERT, Clerk

Presented by Representative MacBride of Presque Isle.

11  
12 STATE OF MAINE  
13

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

17 AN ACT to Change the Date of the Primary  
18 Election to the First Tuesday after  
19 the 2nd Monday in September.  
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23 Sec. 1. 21 MRSA §444, as repealed and replaced  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  
26 nomination

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

1           Sec. 2. 21 MRSA §445, sub-§6, as repealed and  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

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

6           Sec. 3. 21 MRSA §445, sub-§8, as repealed and  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

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

12           Sec. 4. 21 MRSA §448, as repealed and replaced  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

14           §448. Time of election

15           The primary election shall be held on the ~~2nd~~  
16 first Tuesday of June after the 2nd Monday in  
17 September of each general election year.

18           Sec. 5. 21 MRSA §449, as repealed and replaced  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

20           §449. Primary as separate election

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

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

31           §451-A. Acceptance by write-in candidate required in  
32 primary election

33           Within 3 days after receiving notice of his nomi-  
34 nation, a write-in candidate must file a written ac-  
35 ceptance with the Secretary of State. If he fails to

1 do so, he becomes disqualified and his name must not  
2 be printed on the general election ballot.

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

6 Notwithstanding any of the following provisions,  
7 no registrar may accept registrations on the 2nd Mon-  
8 day in September.

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

10 §961-A. Preparation of primary election results

11 As soon as the results of the primary election  
12 have been declared, the election return must be pre-  
13 pared.

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

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

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

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

34 §962. Lost or not delivered

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

1 5 days after a primary election, he shall send a mes-  
2 senger to the municipality concerned, and the clerk  
3 shall give him a certified copy of the return.

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

6 §1091. Reports of registration and enrollment

7 Within 10 days after a general election, the reg-  
8 istrar shall send a report to the Secretary of State  
9 stating the number of voters in each voting district  
10 of the municipality at the close of the polls on  
11 election day. Within 10 days after a primary elec-  
12 tion, the registrar shall report to the Secretary of  
13 State the total number of voters in each voting dis-  
14 trict of the municipality and the number of voters  
15 enrolled in each political party in each voting dis-  
16 trict of the municipality at the close of the polls  
17 on election day.

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

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

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

33 §1152-A. Recount for primary election

34 On the written application of a losing candidate  
35 in a primary election not less than 10 days after the  
36 election, the Secretary of State shall permit him or  
37 his counsel to recount the ballots under proper pro-  
38 jective regulation and supervision, subject to the  
39 following provisions.

- 1           1. Vote shows proper percentage of difference.  
2           The percentage of difference between the combined  
3           vote received by the losing candidate and the nearest  
4           winning candidate, as shown by the initial published  
5           returns, must meet the following requirements.
- 6           A. If the combined vote is 1,000 or less, the  
7           percentage of difference between the vote must be  
8           5% or less of the total vote.
- 9           B. If the combined vote is 1,001 to 5,000, the  
10           percentage of difference between the vote must be  
11           4% or less of the total vote.
- 12           C. If the combined vote is 5,001 to 10,000, the  
13           percentage of difference between the vote must  
14           be 3% or less of the total vote.
- 15           D. If the combined vote is 10,001 to 25,000, the  
16           percentage of difference between the vote must be  
17           2% or less of the total vote.
- 18           E. If the combined vote is 25,001 to 50,000, the  
19           percentage of difference between the vote must be  
20           1 1/2% or less of the total vote.
- 21           F. If the combined vote is 50,001 to 100,000,  
22           the percentage of difference between the vote  
23           must be 1% or less of the total vote.
- 24           G. If the combined vote is 100,001 or over, the  
25           percentage of difference between the vote must be  
26           1/2 of 1% or less of the total vote.
- 27           2. Recount on deposit. A losing candidate may  
28           request a recount upon making a deposit with the Sec-  
29           retary of State in the following amounts:
- 30           A. If the combined vote is 1,000 or less and the  
31           percentage of difference between the vote for the  
32           2 candidates is more than 5%, \$150;
- 33           B. If the combined vote is 1,001 to 5,000 and  
34           the percentage of difference between the vote for  
35           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 re-  
17 count 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 re-  
24 call 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 securi-  
35 ty.

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 depository.  
5

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 materi-  
15 als were delivered. The Secretary of State shall  
16 furnish the county commissioners with the appro-  
17 priate 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 ma-  
22 terials 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 re-  
11 count, the Secretary of State shall reseat the pack-  
12 ages of ballots and checklists, and shall note the  
13 fact and date of the recount on them. If there is an  
14 appeal to determine the validity of the disputed bal-  
15 lots, the Secretary of State shall keep them until  
16 needed by the Commission on Governmental Ethics and  
17 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 oth-  
26 er provisions of Maine law, the Secretary of State  
27 may hire any personnel to serve at his pleasure, in-  
28 stitute any procedure and make any changes necessary  
29 to facilitate the completion of any ballot collec-  
30 tion, 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 af-  
8 ter the completion of the recount proceedings. Such  
9 written appeal shall set forth in detail the grounds  
10 for the appeal.

11 STATEMENT OF FACT

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

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