

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1482

H.P. 1014

House of Representatives, April 10, 1991

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

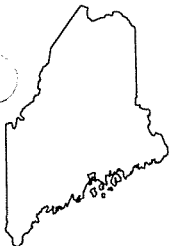
Presented by Representative GOULD of Greenville.

Cosponsored by Representative HASTINGS of Fryeburg, Representative WATERMAN of Buxton and Senator BÉRUBE of Androscoggin.

STATE OF MAINE

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

An Act to Amend the State Ballot Laws.



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

2
4 **Sec. 1. 21-A MRSA §141, sub-§2** is enacted to read:

6 **2. Party qualification not required.** Notwithstanding any
8 other provision of law, a person must be permitted to enroll in
10 any political party regardless of whether the party has qualified
12 to participate in a primary or general election.

14 **Sec. 2. 21-A MRSA §144, sub-§§2 to 4,** as enacted by PL 1985, c.
16 161, §6, are amended to read:

18 **2. Party designation removed from voting list.** On receipt
20 of the application, the registrar shall remove the party
22 designation beside the name of the applicant on the voting list.
24 The registrar shall make a notation on the voting list that the
26 applicant is ineligible to vote at a caucus or primary election,
28 ~~er-to-file-a-petition-as-a-candidate-for-nomination-by-primary~~
30 ~~election,~~ for 3 months. Three months after he the registrar
32 receives the application, the registrar shall enroll the
34 applicant in the party requested.

36 This subsection does not apply in the case of a voter who changes
38 his enrollment under subsection 4.

40 **3. Restrictions during change of enrollment.** A voter may
42 not vote at a caucus, convention or primary election, ~~er-file-a~~
44 ~~petition-as-a-candidate-for-nomination-by-primary-election~~ within
46 3 months after filing an application to change his enrollment,
48 except as provided in subsection 4.

50 **4. Change of residence.** When a voter changes his residence
 from one municipality to another and establishes a new voting
 residence there, he the voter may enroll in any party and vote at
 a caucus, convention or primary election, ~~er-file-a-petition-as-a~~
 ~~candidate-for-nomination-by-primary-election,~~ regardless of his
 previous enrollment.

Sec. 3. 21-A MRSA §145, sub-§1, enacted by PL 1985, c. 161,
 §6, is amended to read:

1. Candidates for nomination by nomination petition. If
 enrolled in a party qualified to nominate candidates by primary
 election or convention, candidates for nomination by nomination
 petition must withdraw their enrollment at least 3 months before
 the required date for filing of the nomination petition.

Sec. 4. 21-A MRSA §301, sub-§1, as enacted by PL 1985, c. 161,
 §6, is amended to read:

1. **Primary election.** A party qualifies to participate in a primary election if its designation was listed on the general election ballot in ~~the last preceding gubernatorial or presidential election~~ any statewide election in the past 4 years and if:

A. The party held municipal caucuses as prescribed by Article II in at least one municipality in each county in the State during that election year and fulfills this same requirement during the year of the primary election;

B. The party held a state convention as prescribed by Article III during that election year;

~~Its candidate for Governor or for President~~ At least one of its candidates in that election polled at least 5% .5% of the total vote cast in the State for ~~Governor or President in the last preceding gubernatorial or presidential~~ the office for which the candidate ran in that election; and

D. Each state party committee must file a statement with the Secretary of State on or before April 4th certifying that the party has held the municipal caucuses required by paragraph A. The statement must be signed by the party chairman chair or his the chair's designated agent.

Sec. 5. 21-A MRSA §302, sub-§1, ¶B, as enacted by PL 1985, c. 161, §6, is amended to read:

B. The name of a candidate for Governor or for President in the last preceding gubernatorial or presidential election who was nominated by petition under subchapter II and who received 5% .5% or more of the total vote cast in the State for Governor or for President in that election;

Sec. 6. 21-A MRSA §302, sub-§2, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 7. 21-A MRSA §303, sub-§2, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 8. 21-A MRSA §303, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Petition. After filing the declaration described in subsection 1, the voter or a group of voters may then circulate petitions. These petitions must be signed in the same manner as primary petitions under section 335, subsections 3 and 4. The circulator of the petition must certify his the circulator's belief that the signatures on it are genuine and that the signers

2 are registered and-enrolled voters. Each page of the petition
4 must have a caption, in conspicuous type, which contains the
6 designation of the proposed party followed by the words "Petition
8 to participate in the primary election." The Secretary of State
10 shall prepare forms for these petitions. The petitions must be
filed in the office of the Secretary of State before 5 p.m. on
the 180th day preceding a primary election and must contain the
signatures and legal addresses of voters, equal in number to at
least 5% .5% of the total vote cast in the State for Governor at
the last preceding gubernatorial election.

12 Sec. 9. 21-A MRSA §306, as enacted by PL 1985, c. 161, §6, is
14 repealed.

16 Sec. 10. 21-A MRSA §321, first ¶, as enacted by PL 1985, c.
161, §6, is amended to read:

18 Each party shall hold a state convention between March 1st
20 and the 3rd Tuesday in August ~~1st~~ biennially during general
election year.

22 Sec. 11. 21-A MRSA §321, sub-§2, ¶¶E and F, as enacted by PL
24 1985, c. 161, §6, are amended to read:

26 E. Elect a district committee for each congressional
district; and

28 F. Elect a county committee for each county from persons
30 nominated at municipal caucuses held in the county. If a
32 municipality entitled to nominate a person for election to
the county committee fails to do so, the convention may
elect any resident of that municipality to the county
committee; and

34 Sec. 12. 21-A MRSA §321, sub-§2, ¶G is enacted to read:

36 G. Nominate candidates, if the party has elected to
38 nominate candidates by convention pursuant to article V.

40 Sec. 13. 21-A MRSA §331, sub-§1, as enacted by PL 1985, c.
42 161, §6, is amended to read:

44 1. Nomination by primary election. A Except for candidates
nominated by convention pursuant to article V, a party's
46 nomination of a candidate for any federal, state or county office
shall must be made by primary election, as provided in this
Article article.

48 Sec. 14. 21-A MRSA §334, as enacted by PL 1985, c. 161, §6,
50 is amended to read:

2 **§334. Qualification of candidate for primary nomination**

4 A candidate for nomination by primary election must file a
6 primary petition and consent under sections 335 and 336. He ~~must~~
8 ~~be enrolled, on or before April 1st, in the party named in the~~
10 ~~petition and must be eligible to file a petition as a candidate~~
12 ~~for nomination by primary election under section 144, subsection~~
 ~~3. The registrar in the candidate's municipality of residence~~
 must certify to that fact upon The candidate must satisfy any
 criteria for candidacy established by the party named in the
 petition.

14 **Sec. 15. 21-A MRSA §335, sub-§§2, 3 and 7, as enacted by PL**
16 **1985, c. 161, §6, are amended to read:**

18 **2. By whom signed.** A primary petition may be signed only
20 by voters of the electoral division which that is to make the
 nomination and ~~who are enrolled in the party named in the~~
 petition. Other signatures are void.

22 **3. How signed.** The voter must personally sign his the
24 voter's name in such a manner as to satisfy the registrar of his
26 the voter's municipality that he the voter is a registered voter
 and ~~enrolled in the party named on the petition.~~ Either the
 voter or the circulator of the petition must print the voter's
 name.

28 **7. Certification of petition.** A primary petition shall
30 must be verified and certified as follows.

32 A. The circulator of a primary petition shall verify by
34 oath or affirmation before a notary public or other person
36 authorized by law to administer oaths or affirmations that
 all of the signatures to the petition were made in his the
 circulator's presence and that to the best of his the
 circulator's knowledge and belief each signature is the
38 signature of the person whose name it purports to be and
40 each person ~~is enrolled in the party named in the petition~~
 and is a resident of the electoral division named in the
 petition.

42 B. The registrar of each municipality concerned shall
44 certify which names on a petition appear on the voting list
46 of that municipality as registered and ~~enrolled~~ voters and
 shall strike out any names which that do not satisfy
 subsection 3.

48 **Sec. 16. 21-A MRSA c. 5, sub-c. I, art. V is enacted to read:**

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ARTICLE V

NOMINATION BY CONVENTION

§341. State convention nomination

A party qualified to participate in a primary election under section 301 may elect to nominate candidates by convention rather than by primary election. A party intending to nominate candidates by convention shall hold a state convention under the provisions of Article III.

§342. Filings with Secretary of State

1. List of nominated candidates. A party nominating candidates by convention shall file a list of nominated candidates, sworn to by the party chair and secretary, in the office of the Secretary of State by the 3rd Tuesday in August in the year in which the election is to be held.

2. Candidate consent. Each candidate nominated at the convention shall file a candidate consent form in the Office of the Secretary of State by 5 p.m. on the 3rd Tuesday in August in the year in which the election is to be held.

Sec. 17. 21-A MRSA §351, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Limited to one method. A person may file as a candidate for any federal, state or county office either by primary election or nomination petition, or convention except as provided in subsection 3, but not by both more than one of these methods.

Sec. 18. 21-A MRSA §353, as enacted by PL 1985, c. 161, §6, is amended to read:

§353. Qualification of candidate for nomination by petition

A person who seeks nomination by petition qualifies by filing a nomination petition and consent as provided in sections 354 and 355. If enrolled in a party qualified to nominate candidates by primary election or convention, the person must also withdraw his enrollment in a party, as provided in section 145, at least 3 months before the filing date for the nomination petition.

Sec. 19. 21-A MRSA §354, sub-§5, ¶¶A to H, as enacted by PL 1985, c. 161, §6, are amended to read:

- 2 A. For a slate of candidates for the office of presidential
elector, at least 4,000 2,000 and not more than 6,000 3,000
3 voters;
- 4 B. For a candidate for Governor, at least 4,000 2,000 and
6 not more than 6,000 3,000 voters;
- 8 C. For a candidate for United States Senator, at least
10 4,000 2,000 and not more than 6,000 3,000 voters;
- 12 D. For a candidate for United States Representative, at
least 2,000 1,000 and not more than 3,000 1,500 voters;
- 14 E. For a candidate for county office, at least 300 150 and
16 not more than 400 200 voters;
- 18 F. For a candidate for State Senator, at least 200 100 and
not more than 300 150 voters;
- 20 G. For a candidate for State Representative, at least 50 25
22 and not more than 80 40 voters; and
- 24 H. For a candidate for county charter commission member, at
least 50 25 and not more than 80 40 voters.

26 **Sec. 20. 21-A MRSA §354, sub-§7, ¶B,** as repealed and replaced
by PL 1985, c. 614, §14, is amended to read:

28 B. Petitions must be delivered to the registrar for
30 certification at least 5 business days before the date of
32 ~~the primary election filing of the petition, as required in~~
subsection 8-A.

34 **Sec. 21. 21-A MRSA §354, sub-§8-A,** as enacted by PL 1985, c.
36 383, §8, is amended to read:

38 **8-A. Filed with the Secretary of State.** A nomination
petition must be filed in the office of the Secretary of State by
40 5 p.m. on the ~~date of the primary election~~ 3rd Tuesday in August
in the election year in which it is to be used.

42 **Sec. 22. 21-A MRSA §723, sub-§1,** as amended by PL 1987, c.
44 146, is further amended to read:

46 **1. Primary election.** In a primary election, the person who
receives a plurality of the votes cast for nomination to any
48 office is nominated for that office ~~if his vote total equals or~~
~~exceeds the minimum number of signatures needed to place his name~~
~~on the primary ballot by petition, except for write-in candidates~~
50 ~~under~~ except as provided in paragraph A C.

2 A. ~~A person who has not qualified as a candidate for~~
3 ~~nomination by primary election by filing a petition and~~
4 ~~consent under sections 335 and 336, but who fulfills the~~
5 ~~other qualifications under section 334, may be nominated at~~
6 ~~the primary election if he receives a number of valid~~
7 ~~write-in votes equal to at least twice the minimum number of~~
8 ~~signatures required under section 335, subsection 5, on a~~
9 ~~primary petition for a candidate for that office.~~

10 (1) ~~The Secretary of State shall send notice of~~
11 ~~nomination to a write-in candidate by certified mail,~~
12 ~~return receipt requested. For purposes of this~~
13 ~~paragraph, the notice shall be deemed given on the date~~
14 ~~the write-in candidate signs the receipt, or if the~~
15 ~~notice is undeliverable, the date the post office last~~
16 ~~attempts to deliver it. If the candidate fails to file~~
17 ~~a written acceptance with the Secretary of State within~~
18 ~~15 days after receiving the notice, he is disqualified~~
19 ~~and his name shall not be printed on the general~~
20 ~~election ballot.~~

21 B. The Secretary of State shall immediately certify by mail
22 the nomination of each person nominated by the primary
23 election.

24 C. If no person qualified for nomination by primary
25 election by filing a petition and consent under sections 335
26 and 336, the person receiving the plurality of votes cast
27 for nomination to an office is nominated for that office
28 only if the person:

29 (1) Fulfills the qualifications described in section
30 334, except the requirement for filing a petition and
31 consent; and

32 (2) Receives a number of valid write-in votes equal to
33 at least the minimum number of signatures required
34 under section 335, subsection 5, on a primary petition
35 for a candidate for that office.

36 The Secretary of State shall send notice of nomination to a
37 write-in candidate by certified mail, return receipt
38 requested. For purposes of this paragraph, the notice is
39 deemed given on the date the write-in candidate signs the
40 receipt, or if the notice is undeliverable, the date the
41 post office last attempted to deliver it. If the candidate
42 fails to file a written acceptance with the Secretary of
43 State within 15 days after receiving the notice, the
44 candidate is disqualified and the name of the candidate must
45 not be printed on the general election ballot.

2

STATEMENT OF FACT

4

6 This bill makes several changes to the election laws to
8 increase access to the State's election ballot for new political
10 parties, independent candidates and candidates wishing to run
from existing political parties. The bill also permits voters to
enroll in any political party, regardless of whether the party is
qualified to run candidates in an election.

12

14 Under current law, a person wishing to be placed on the
16 ballot in an existing party's primary election must collect a
18 certain number of signatures on a petition from persons enrolled
20 in the political party in whose primary they will participate,
22 and the candidate must also be enrolled in that party. This bill
24 broadens opportunities for persons to become candidates and for
parties to choose their candidates by permitting any person in
the election district to sign the nomination petition for a
candidate, regardless of party enrollment and by permitting the
party to decide whether its candidates must be enrolled in the
party. This bill also eliminates the requirement that candidates
in a primary receive a minimum number of votes to win the
nomination, for all candidates except write-in candidates running
in an election where no candidate was on the ballot.

26

28 For independent candidates attempting to have their names
30 placed on the ballot by collecting signatures on petitions, this
32 bill increases the chances of successfully accessing the ballot
34 by decreasing the number of signatures required on the
36 petitions. Current law requires independent candidates to
38 collect twice the number of signatures that a party's candidate
40 is required to collect to gain access to a primary election
ballot. This bill reduces by half the number of signatures
required of an independent candidate, so that the number required
to gain access to the ballot for an independent candidate is the
same as the number required for a party candidate to gain access
to the primary election ballot. This bill also changes the
deadline for submitting the petition from the date of the primary
election in June to the 3rd Tuesday in August.

42

44 This bill also permits political parties to choose their
candidates at a state convention, rather than having a primary
election, as required by current law.

46

48 Under current law, for a political party to qualify to hold
50 a primary election to nominate candidates, the party must collect
a number of signatures equal to at least 5% of the votes cast for
Governor in the last election or have a candidate for Governor or
president in the last election who polled at least 5% of the

2 vote. The bill would decrease the number of votes or signatures
3 required to .5% of the vote. Under current law, a party that has
4 qualified in one election continues to be qualified only if it
5 receives at least 5% of the vote in gubernatorial and
6 presidential elections every 2 years. The bill provides for
7 continued party qualification if any candidate of the party
8 receives at least .5% of the vote at any statewide election once
every 4 years.

10 Finally, this bill permits voters to enroll in any political
11 party, regardless of whether the party is qualified to
12 participate in a primary election.