

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 156

H.P. 114

House of Representatives, January 25, 1993

An Act Authorizing Presidential Preference Primary Elections in the State.

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RICHARDSON of Portland.

Cosponsored by Senator HANDY of Androscoggin, Representatives AHEARNE of Madawaska, CARLETON of Wells, CATHCART of Orono, CHASE of China, COLES of Harpswell, DAGGETT of Augusta, FARNSWORTH of Hallowell, GEAN of Alfred, HOLT of Bath, HUSSEY of Milo, JOHNSON of South Portland, LEMKE of Westbrook, LEMONT of Kittery, MARSH of West Gardiner, MITCHELL of Vassalboro, MORRISON of Bangor, PENDLETON of Scarborough, PFEIFFER of Brunswick, ROWE of Portland, RUHLIN of Brewer, SAXL of Bangor, STROUT of Corinth, TOWNSEND of Portland, TRACY of Rome, TUFTS of Stockton Springs, WALKER of Blue Hill, WENTWORTH of Arundel, YOUNG of Limestone, Senators CAREY of Kennebec, O'DEA of Penobscot, VOSE of Washington.

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

2 Sec. 1. 21-A MRSA §335, sub-§5, ¶B-1, as enacted by PL 1987, c.
4 797, §1, is amended to read:

6 B-1. For a candidate for the office of President of the
8 United States, at least 2,000 1,000 and not more than 3,000
 1,500 voters;

10 Sec. 2. 21-A MRSA §408 is enacted to read:

12 §408. Repeal

14 This subchapter is repealed July 1, 1995.

16 Sec. 3. 21-A MRSA c. 5, sub-c. V is enacted to read:

18 SUBCHAPTER V

20 PRESIDENTIAL PREFERENCE PRIMARY ELECTIONS

22 §411. Determination and date of primary

24 1. Preference primary. In each year in which presidential
26 electors are to be elected, the voters of this State must be
 given an opportunity at an election to express their preference
28 for the person to be the presidential candidate for their party.

30 2. Date of primary. The presidential preference primary
32 must be held on the same day as the presidential primary for the
34 State of New Hampshire or, if that state holds no presidential
 primary, on the first Tuesday in March of the presidential
 election year.

36 §412. Petitions

38 By July 1st of the year preceding each presidential election
40 year, the Secretary of State shall prepare and make available
42 petitions for circulation by persons desiring to be contestants
44 in the state presidential preference primary of any party. The
 petitions must meet the requirements of sections 335 and 336,
 excluding section 335, subsections 6 and 8, and must be filed at
 least 45 days before the presidential preference primary election.

46 §413. Ballot preparation

2 The Secretary of State shall prepare ballots for the
presidential preference primary election in accordance with
4 section 601-A.

6 **§414. Candidate eligibility**

8 The following provisions govern the Secretary of State's
selection of presidential candidates to appear on the ballot.

10 1. Inclusion on ballot. The ballot must include the name
of any person who is a member of a political party that has
12 qualified to participate in a primary election under subchapter I
and who meets at least one of the following conditions as
14 determined by the Secretary of State.

16 A. The person has qualified for a presidential primary in
any other state at least 3 weeks before this State's primary.

18 B. The person has filed a petition with the Secretary of
20 State that meets the requirements of section 412. The
Secretary of State shall determine if a petition meets the
22 requirements of section 412, subject to challenge and appeal
under section 337.

24 C. The person has been determined by the Secretary of
26 State, in the Secretary of State's sole discretion, to be
generally advocated or recognized as a presidential
28 candidate of nationwide stature in the national news media
throughout the United States. This paragraph may not be
30 construed to include so-called "favorite son" or "favorite
daughter" candidates whose candidacy may be limited to one
32 state.

34 2. Notification of candidates. The Secretary of State
shall determine the names of the persons to be placed on the
36 ballot under subsection 1. The Secretary of State shall promptly
notify those persons that their names will appear on the ballot
38 and shall advise those persons of the steps that they must take
if they do not wish their names to appear on the ballot.

40 3. Withdrawal of candidates. A person who has received
42 notice of inclusion on the ballot may withdraw from the election
by filing an affidavit with the Secretary of State requesting
44 under oath that the candidate be withdrawn from the election.
The Secretary of State is not required to reprint ballots to
46 remove the name of a candidate if the Secretary of State receives
notice of the candidate's withdrawal after the ballots are
48 printed. If the Secretary of State receives notice of a
candidate's withdrawal at least 2 weeks before the election, the
50 Secretary of State shall provide municipal election officials

2 with signs to post at the polls notifying voters of the
3 candidate's withdrawal.

4 **§415. Selection of delegates**

6 Selection of delegates to a national presidential nominating
7 convention is determined under this section.

8
9 1. Identification of delegates. The state committee of any
10 political party, in its sole discretion, may call presidential
11 caucuses for the purpose of allowing persons enrolled in that
12 party to select the individual delegates and alternates to be
13 pledged to each potential presidential candidate. If the state
14 committee of the political party in whose primary a candidate is
15 participating has not called delegate selection caucuses, the
16 candidate shall file with the Secretary of State, at least 2
17 weeks before the presidential preference primary election, a list
18 of names of delegates ordered by priority of selection equal in
19 number to the number of delegates and alternates available, as
20 determined by the party, for that party's convention.

21 2. Selection of delegates. The Secretary of State shall
22 determine the delegates elected and notify each candidate and the
23 credentials committee of each party's national convention of the
24 elected delegates on the following basis.

25
26
27 A. A candidate who does not receive at least 5% of the
28 total votes cast in the primary election of that candidate's
29 party receives no delegates.

30
31 B. Delegates and alternates to each party's national
32 nominating convention must be divided among the candidates
33 of that party not excluded under paragraph A in proportion
34 to the number of votes cast for those candidates in that
35 party's primary election.

36
37 C. Delegates and alternates elected for each candidate must
38 be determined in the order of the list submitted by the
39 candidate or determined by party caucuses under subsection 1.

40
41 3. Challenge to seating of delegates. If a successful
42 challenge is made at any national convention to the seating of
43 delegates selected under this subchapter, and the challenge is
44 based on a claim that this subchapter violates the party's
45 constitutionally protected right to determine the composition of
46 a state's delegation to its national convention, the Secretary of
47 State shall report to the Legislature by December 1st of the year
48 in which the challenge is made. The report must include
49 recommendations for curing any defect in the law identified at
50 the time of the challenge.

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§416. Effective date

This subchapter takes effect July 1, 1995.

Sec. 4. 21-A MRSA §601-A, as enacted by PL 1987, c. 797, §3, is amended to read:

§601-A. Presidential preference primary ballot

The Secretary of State shall prepare the presidential preference primary ballots according to the following provisions.

1. **Arrangement.** The ballot must be arranged in one column.

2. **Content.** The ballot must contain the items listed in this section.

A. The following instructions must be printed in bold type at the top of the ballot.

"MAKE A CROSS (X) OR A CHECK MARK (✓) IN THE SQUARE AT THE LEFT OF THE NAME OF THE CANDIDATE FOR WHOM YOU WISH TO VOTE. YOU MAY VOTE FOR A PERSON WHOSE NAME DOES NOT APPEAR ON THE BALLOT BY WRITING IT OR PASTING A STICKER WITH THAT PERSON'S NAME ON IT IN THE PROPER BLANK SPACE AND MARKING A CROSS (X) OR A CHECK MARK (✓) IN THE PROPER SQUARE AT THE LEFT. DO NOT ERASE NAMES.

~~IF YOU WISH TO VOTE FOR UNCOMMITTED, MAKE A CROSS (X) OR A CHECK MARK (✓) IN THE SQUARE AT THE LEFT OF THE WORD "UNCOMMITTED." MARK ONLY ONE SQUARE.~~"

B. The ballot must contain the name, without any title, of each candidate arranged alphabetically with the last name first in block capital letters, followed by the first name and middle name or initial, or followed by the first name or first initial and the middle name. The name of each candidate may be printed on the ballot in only one space.

~~C. The ballot must contain the word "uncommitted" following the list of candidates.~~

D. A square shall must be printed at the left side of and close to the name of each candidate ~~and uncommitted space,~~ so that a voter may designate any choice clearly by a cross (X) or a check mark (✓).

E. On the front and back of the folded ballot must be printed "Official (name of political party) Presidential

2 Preference Primary Ballot," and the date of the election and
3 a-faesimile-of-the-signature-of-the-Secretary-of-State.

4 3. **Distinctively colored.** The ballots must be printed
5 separately for each political party on paper of a distinctive
6 color: ~~White~~ white for the party which that cast the greatest
7 number of votes for Governor at the last gubernatorial election;
8 yellow for the 2nd highest; blue for the 3rd highest; and green
9 for the 4th highest. The Secretary of State shall choose a
10 distinctive color for ballots for any other political party.

12 **STATEMENT OF FACT**

14 This bill requires Maine to hold a presidential preference
15 primary election to determine voter support for potential
16 presidential nominees. The bill requires the primary to be held
17 on the same day as the New Hampshire primary, if there is a
18 primary, to facilitate a New England regional primary.

20 The bill permits state committees of political parties to
21 call caucuses to select delegates to a national convention for
22 candidates who achieve the required percentage of votes in the
23 primary election; if the parties do not have caucuses, the
24 candidates must submit a list of delegates to the Secretary of
25 State. The bill also requires the Secretary of State to report
26 to the Legislature in December of any year in which the national
27 convention refuses to seat Maine delegates as a result of a
28 defect in this method, and requires the Secretary of State to
29 propose a remedy to any defect identified.

32 The bill also makes the Maine Revised Statutes, Title 21-A,
33 chapter 5, subchapter V effective July 1, 1995 so that the
34 primary will first be required for the 1996 presidential election.