

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

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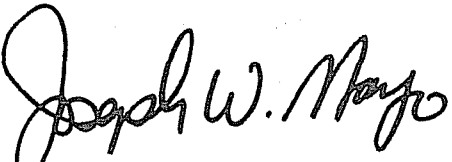
H.P. 1422

House of Representatives, February 24, 1994

**RESOLUTION, Proposing An Amendment to the Constitution of Maine
to Provide for the Election of a Lieutenant Governor and to Provide for
Succession to the Office of Governor.**

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative LEMKE of Westbrook.
Cosponsored by Senator HANDY of Androscoggin and
Representatives: AHEARNE of Madawaska, BENNETT of Norway, CARLETON of Wells,
CARROLL of Gray, CLARK of Millinocket, COFFMAN of Old Town, DEXTER of Kingfield,
GOULD of Greenville, JACQUES of Waterville, KILKELLY of Wiscasset, LIBBY of
Kennebunk, MARTIN of Eagle Lake, MORRISON of Bangor, PARADIS of Augusta, REED of
Dexter, TRACY of Rome, TUFTS of Stockton Springs.

2 **Constitutional amendment. RESOLVED:** Two thirds of each
branch of the Legislature concurring, that the following
amendment to the Constitution of Maine be proposed:

4 **Constitution, Art. V, Part First, §§3, 14 and 15** are repealed and
6 the following enacted in their place:

8 **Section 3. Election; votes to be returned to Secretary of**
State; Secretary of State to lay lists before the Senate and
10 **House of Representatives; provision in case of tie.** The meetings
12 for election of Governor and Lieutenant Governor must be
notified, held and regulated and votes received, sorted, counted
14 and declared and recorded, in the same manner as those for
Senators and Representatives; except that, the names of the
16 candidates for the offices of Governor and Lieutenant Governor
must be grouped on the official ballot and the voter may cast a
18 single ballot for any group, which counts as a vote for each
candidate in that group, but the voter may not cast a vote for
20 only one of the candidates in the group. Copies of lists of
votes must be sealed and returned to the Office of the Secretary
22 of State in the same manner and at the same time as those for
Senators. The Secretary of State, on the first Wednesday after
24 the first Tuesday of the month of January following the election,
shall lay the lists returned to the Office of the Secretary of
26 State before the Senate and House of Representatives for
examination, together with the ballots cast if they so elect, and
28 they shall determine the number of votes duly cast for the
offices of Governor and Lieutenant Governor. In the case of a
30 choice by plurality of all of the votes returned, they shall
declare and publish that fact. If there is a tie between the 2
32 groups of persons having the largest number of votes for Governor
and Lieutenant Governor, the Senate and the House of
34 Representatives, meeting in joint session, with each member
having a single vote, shall elect one group of candidates for
36 Governor and Lieutenant Governor from those persons receiving an
equal number of votes. The persons elected by the Senate and the
38 House of Representatives are declared the Governor and Lieutenant
Governor.

40 **Section 14. Vacancy, how supplied; mental or physical**
disability of the Governor continuously for more than 6 months.
42 When the office of Governor becomes vacant because of the death,
resignation or removal of the Governor in office, or any other
44 cause, the Lieutenant Governor shall assume the office of
Governor for the remainder of the term of office.

46 When the offices of Governor and Lieutenant Governor become
48 vacant because of the death, resignation or removal of the
Governor and Lieutenant Governor in office, or any other cause,

2 the President of the Senate shall assume the office of Governor
4 until another Governor is duly qualified. When the vacancy
6 occurs more than 90 days before the date of the primary election
8 for nominating candidates to be voted for at the next biennial
10 election, the President of the Senate shall assume the office of
12 Governor until the first Wednesday after the first Tuesday of the
month of January following the biennial election. At the
biennial election, a Governor and Lieutenant Governor must be
elected to fill the unexpired term created by the vacancy. When
the vacancy occurs less than 90 days before the date of a primary
election, the President of the Senate shall fill the unexpired
term.

14 When the offices of Governor, Lieutenant Governor, President
16 of the Senate and Speaker of the House of Representatives become
18 vacant at the same time, the person acting as Secretary of State
20 shall exercise the office of Governor and immediately shall
22 convene by proclamation the Senate and the House of
24 Representatives, which shall fill respectively the vacancies in
the offices of the President of the Senate and the Speaker of the
House of Representatives. By joint ballot, the Senate and House
of Representatives shall choose a person who shall assume the
office of Governor for the same term and under the same
conditions as the President of the Senate.

26 When a Governor in office has been continuously unable to
28 discharge the powers and duties of that office for 6 months
30 because of mental or physical disability, that office is deemed
32 vacant. The vacancy must be declared by the Supreme Judicial
34 Court upon presentment to it of a joint resolution declaring the
grounds of the vacancy, adopted by a 2/3 vote of the Senators and
Representatives in convention, and upon notice, hearing before
the court and a decision by a majority of the court that grounds
exist for declaring the office vacant.

36 **Section 15. Temporary mental or physical disability of**
38 **Governor.** When the Governor is unable to discharge the powers
40 and duties of that office because of mental or physical
42 disability, the Lieutenant Governor or, if that office is vacant,
44 the President of the Senate or, if that office is vacant, the
46 Speaker of the House of Representatives shall exercise the powers
and duties of the office of Governor until the Governor is again
able to discharge the powers and duties of that office, or until
the office of Governor is declared vacant or until another
Governor is duly qualified.

48 When the Governor is unable to discharge the powers and
50 duties of that office, the Governor may certify that inability to
the Chief Justice of the Supreme Judicial Court, who shall
certify that the Lieutenant Governor or, if that office is
vacant, the President of the Senate or, if that office is

2 vacant, the Speaker of the House of Representatives shall
3 exercise the powers and duties of the office of Governor until
4 the Governor certifies to the Chief Justice that the Governor is
5 able to discharge the powers and duties of that office and the
6 Chief Justice notifies the officer who has been exercising the
7 powers and duties of the office of Governor of that fact.

8 When the Secretary of State has reason to believe that the
9 Governor is unable to discharge the duties of that office, the
10 Secretary of State may certify that inability to the Supreme
11 Judicial Court, declaring the reason for that belief. After
12 notice to the Governor, a hearing before the court and a decision
13 by a majority of the court that the Governor is unable to
14 discharge the duties of the office of Governor, the court shall
15 notify the Lieutenant Governor or, if that office is vacant, the
16 President of the Senate or, if that office is vacant, the Speaker
17 of the House of Representatives of that inability and that
18 officer shall exercise the functions, powers and duties of the
19 office of Governor until the Secretary of State or the Governor
20 certifies to the court that the Governor is able to discharge the
21 duties of the office of Governor and the court decides, after
22 notice to the Governor and a hearing before the court, that the
23 Governor is able to discharge the duties of that office and
24 notifies the officer who has been exercising the powers and
25 duties of the office of Governor of that fact.

26 When either the President of the Senate or the Speaker of
27 the House of Representatives exercises the office of Governor,
28 the officer is entitled only to the compensation of the Governor
29 and the officer's duties as President or Speaker are suspended.
30 The Senate or the House of Representatives shall fill the vacancy
31 resulting from the suspension until the officer ceases to
32 exercise the office of Governor.

33 **Constitution, Art. V, Part First, §§16 to 19** are enacted to read:

34
35 **Section 16. Qualifications for Lieutenant Governor.** The
36 Lieutenant Governor, at the commencement of the Lieutenant
37 Governor's term, must be at least 30 years of age; must be a
38 citizen of the United States for at least 15 years and a resident
39 of the State for 5 years; and, at the time of election and during
40 the term for which elected, be a resident of the State.

41
42 **Section 17. Disqualifications for Lieutenant Governor.** A
43 person holding an office or place under the United States, this
44 State or any other power may not assume or exercise the office of
45 Lieutenant Governor, except as provided by this Constitution.
46
47
48

2. Section 18. Compensation of Lieutenant Governor. At stated
3. times the Lieutenant Governor is entitled to receive a
4. compensation, which may not be increased or diminished during the
5. Lieutenant Governor's continuance in office.

6. Section 19. Duties of Lieutenant Governor. The Lieutenant
7. Governor shall assist the Governor in carrying out the duties and
8. responsibilities of Governor.

10 ; and be it further

12 **Constitutional referendum procedure; form of question; effective**
13 **date. Resolved:** That the municipal officers of this State shall
14 notify the inhabitants of their respective cities, towns and
15 plantations to meet, in the manner prescribed by law for holding
16 a general election, at the next general election in the month of
17 November following passage of this resolution, to vote upon the
18 ratification of the amendment proposed in this resolution by
19 voting upon the following question:

20 "Do you favor amending the Constitution of Maine to provide
21 for the election of Governor and Lieutenant Governor by a
22 single vote, the Lieutenant Governor to assist the Governor
23 in the responsibilities and duties of that office and to
24 succeed the Governor in the event of a vacancy in the office
25 of Governor?"

28 The legal voters of each city, town and plantation shall
29 vote by ballot on this question and designate their choice by a
30 cross or check mark placed within the corresponding square below
31 the word "Yes" or "No." The ballots must be received, sorted,
32 counted and declared in open ward, town and plantation meetings
33 and returns made to the Secretary of State in the same manner as
34 votes for members of the Legislature. The Governor shall review
35 the returns and, if it appears that a majority of the legal votes
36 are cast in favor of the amendment, the Governor shall proclaim
37 that fact without delay and the amendment becomes part of the
38 Constitution on the date of the proclamation; and be it further

40 **Secretary of State shall prepare ballots. Resolved:** That the
41 Secretary of State shall prepare and furnish to each city, town
42 and plantation all ballots, returns and copies of this resolution
43 necessary to carry out the purpose of this referendum.

46 STATEMENT OF FACT

48 This constitutional resolution establishes the office of
49 Lieutenant Governor. The Lieutenant Governor is elected with the
50 Governor by a single vote and assists the Governor with the

responsibilities and duties of the office of Governor. The
2 Lieutenant Governor succeeds the Governor in the event the office
of Governor is vacant.