

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1043

H.P. 769

House of Representatives, March 28, 1995

**An Act to Allow Political Parties to Determine the Method of
Nominating Candidates.**

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GERRY of Auburn.
Cosponsored by Representatives: CAMPBELL of Holden, LEMKE of Westbrook, LUTHER
of Mexico, SAVAGE of Union, Senator: CAREY of Kennebec.

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

2

3. **Sec. 1. 21-A MRSA §144, sub-§3**, as amended by PL 1993, c. 330, §1, is further amended to read:

6

3. **Restrictions during change of enrollment.** Except as provided in subsection 4, a voter may not vote at a caucus, convention or primary election if party enrollment is required for 15 days after filing an application to change enrollment. A voter may not file a petition as a candidate for nomination by primary election within 3 months after filing an application to change enrollment, except as provided in subsection 4.

8

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

16

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 if party enrollment is required, or file a petition as a candidate for nomination by primary election, regardless of his the voter's previous enrollment.

22

5. **Sec. 3. 21-A MRSA §166, sub-§1**, as enacted by PL 1985, c. 161, §6, is amended to read:

24

1. **Candidate in primary election.** If the candidate is a candidate for nomination in a primary election, he caucus or convention, the candidate is entitled to the additions, deletions and changes from the time he the candidate is a declared candidate in that primary election, caucus or convention until the day of the primary-election nominating event. But if he the candidate is nominated in that primary election, caucus or convention to be a candidate in the general election, he the candidate is entitled to those additions, deletions and changes until the day of the general election.

30

6. **Sec. 4. 21-A MRSA §301, sub-§3** is enacted to read:

38

3. **Primary election defined.** Notwithstanding section 1, subsection 32, for purposes of this subchapter, the term "primary election" means the regular election, caucus or convention for the election of nominees of a party for the general election.

40

7. **Sec. 5. 21-A MRSA c. 5, sub-c. I, art. IV, first 2 lines** are repealed and the following enacted in their place:

46

Article IV

48

**NOMINATION BY PRIMARY ELECTION, CAUCUS
OR CONVENTION**

50

52

2 Sec. 6. 21-A MRSA §331, as enacted by PL 1985, c. 161, §6, is
amended to read:

4 **§331. Primary, caucus or convention required**

6 1. **Nomination by primary election, caucus or convention.** A
8 party's nomination of a candidate for any federal, state or
county office shall must be made by primary election, caucus or
10 convention, as provided in this Article.

12 2. **Exceptions.** This Article does not apply to:

14 A. ~~---Nominations for presidential electors;~~

16 B. Nominations to fill vacancies under subchapter III; and

18 C. Nominations by petition under subchapter II.

20 3. **Limitations to candidacy.** The following limitations
apply to all candidates for nominations.

22 A. A person may not file, whether by primary election,
24 caucus, convention or nomination petition, as a candidate
for more than one federal, state or county office at any
26 election, caucus or convention, except for a candidate for
membership in a county charter commission under section 351,
28 subsection 3.

30 B. A person may file as a candidate for any federal, state
or county office either by primary election, caucus,
32 convention or nomination petition but not by ~~both~~ more than
one, except for a candidate for membership in a county
34 charter commission under section 351, subsection 3.

36 4. **Party choice for nominating forum.** A political party
38 may choose the method of nominating a candidate, choosing among
primaries, caucuses or convention by notifying the Secretary of
40 State of the choice at least 6 weeks prior to the date of the
events.

42 Sec. 7. 21-A MRSA §334, as enacted by PL 1985, c. 161, §6, is
amended to read:

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

46 A candidate for nomination by primary election, caucus or
48 convention must file a primary petition and consent under
sections 335 and 336. ~~He~~ The candidate must be enrolled, on or
50 before April 1st, in the party named in the petition and must be
eligible to file a petition as a candidate for nomination by
52 primary election, caucus or convention under section 144,

2 subsection 3. The registrar in the candidate's municipality of
residence must certify to that fact upon the petition.

4 **Sec. 8. 21-A MRSA §336, sub-§1**, as enacted by PL 1985, c. 161,
§6, is amended to read:

6
7 **1. Consent.** The consent must contain a statement signed by
8 the candidate that he the candidate will accept the nomination of
9 the primary election, caucus or convention. The statement may be
10 printed as a part of the primary petition.

12 **Sec. 9. 21-A MRSA §§338 and 339**, as enacted by PL 1985, c.
13 161, §6, are amended to read:

14 **§338. Write-in candidates**

16
17 A If a primary election is held, a person whose name will
18 not appear on the printed primary ballot because he the person
19 did not file a petition and consent under sections 335 and 336,
20 but who fulfills the other qualifications under section 334, may
21 be nominated at the primary election as a write-in candidate in
22 accordance with section 723, subsection 1.

24 **§339. Time and nature of election, caucus or convention**

26 The primary election ~~shall~~, caucus or convention must be
27 held on the 2nd Tuesday of June of each general election year and
28 is considered to be a separate election for each party ~~which that~~
29 takes part in it. This includes the duties of public officials
30 in announcing the election, caucus or convention, providing forms
31 and ballots, keeping records and any other matter necessary to
32 effect the purpose of a primary election, caucus or convention.
33 A primary election ~~shall~~ must be conducted the same as the
34 general election, as nearly as practicable, for each party.

36 **Sec. 10. 21-A MRSA §340, sub-§1**, as enacted by PL 1987, c.
37 423, §3, is amended to read:

38
39 **1. Notice to Secretary of State.** No later than February
40 ~~1st~~ 6 weeks before the 2nd Tuesday of June of the election year,
41 each political party eligible to participate in a primary
42 election, caucus or convention shall notify the Secretary of
43 State of the enrollment qualifications, subject to the
44 restrictions in section 144, for voters eligible to vote in that
45 party's primary election, caucus or convention. If no notice is
46 received by that date, only voters enrolled in a political party
47 may vote in that party's primary election, caucus or convention.

48
49 **Sec. 11. 21-A MRSA §351, sub-§§1 and 2**, as enacted by PL 1985,
50 c. 161, §6, are amended to read:

2 **1. Limited to one office.** A person may not file, whether
3 by primary election, caucus or convention or nomination petition,
4 as a candidate for more than one federal, state or county office
at any election, except as provided in subsection 3.

6 **2. Limited to one method.** A person may file as a candidate
7 for any federal, state or county office either by primary
8 election, caucus or convention or nomination petition, except as
9 provided in subsection 3, but not by ~~both methods~~ more than one
10 method.

12 **Sec. 12. 21-A MRSA §354, sub-§1,** as enacted by PL 1985, c.
13 161, §6, is amended to read:

14 **1. Content.** A nomination petition must contain the name of
15 only one candidate, his that candidate's place of residence, the
16 office sought and electoral division. A nomination petition may
17 contain as many separate papers as necessary and may contain the
18 candidate's consent required by section 355. It may also contain
19 the candidate's political designation, which may not exceed 3
20 words in length, and may not incorporate the candidate's name, or
21 the designation or an abbreviation of the designation of a party
22 ~~which that~~ that is qualified to nominate candidates by primary
23 election, caucus or convention.
24

26 A. When 2 United States Senators or 2 county commissioners
27 are to be nominated, the nomination petition must contain
28 the term of office sought by the candidate.

30 B. The names of presidential electors must be placed on the
31 petition as a slate. The names of the candidates for
32 President and Vice President must be placed on a petition
33 for the nomination of presidential electors.
34

36 **Sec. 13. 21-A MRSA §354, sub-§7, ¶B,** as repealed and replace
by PL 1985, c. 614, §14, is amended to read:

38 B. Petitions must be delivered to the registrar for
39 certification at least 5 business days before the date of
40 the primary election, caucus or convention.

42 **Sec. 14. 21-A MRSA §354, sub-§8-A,** as enacted by PL 1985, c.
43 383, §8, is amended to read:

44 **8-A. Filed with the Secretary of State.** A nomination
45 petition must be filed in the office of the Secretary of State by
46 5 p.m. on the date of the primary election, caucus or convention
47 in the election year in which it is to be used.
48

50 **Sec. 15. 21-A MRSA §371, sub-§1,** as enacted by PL 1985, c.
51 161, §6, is amended to read:

52

1. **Primary petition if time.** If there is sufficient time to circulate a primary petition before the primary election, caucus or convention, as determined by the Secretary of State, the new candidate must be chosen in that manner. The Secretary of State shall set a time for filing the new petition and the consent described in section 336.

Sec. 16. 21-A MRSA §372, as enacted by PL 1985, c. 161, §6, is amended to read:

§372. Nominees; 60 days or more before election

If a person nominated for United States Senator, Representative to Congress or Governor at a primary election, caucus or convention dies, withdraws or becomes disqualified at least 60 days before the general election, the Governor shall issue a proclamation declaring the vacancy and ordering a special primary election under section 366.

Sec. 17. 21-A MRSA §373, as enacted by PL 1985, c. 161, §6, is amended to read:

§373. Nominees; less than 60 days before election

If a person nominated for United States Senator, Representative to Congress or Governor at a primary election, caucus or convention or by a political committee dies, withdraws or becomes disqualified less than 60 days before the general election, the Governor shall issue a proclamation under section 362.

Sec. 18. 21-A MRSA §391, sub-§§2 and 3, as enacted by PL 1985, c. 161, §6, are amended to read:

2. Vacancy 60 days before primary. If the vacancy occurs 60 days or more before a regular primary election, caucus or convention, nominees must be chosen at the primary, caucus or convention and a successor elected for the remainder of the term at the general election.

3. Vacancy less than 60 days before primary. If the vacancy occurs less than 60 days before a regular primary election, caucus or convention, nominees must be chosen at the next regular primary election, caucus or convention following the one in question, and a successor elected for the remainder of the term at the general election.

Sec. 19. 21-A MRSA §392, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

When there is a vacancy in the office of Representative to Congress, the Governor shall issue a proclamation declaring the

vacancy and ordering a special primary election, caucus or convention followed by a special election to fill the vacancy as provided in section 366.

Sec. 20. 21-A MRSA §622, last ¶, as amended by PL 1985, c. 614, §16, is further amended to read:

A person who is not registered as a voter may not vote in any election. ~~A voter who is not enrolled in a political party may not vote in a primary election.~~

Dated at (name of municipality),

(date signed).

Majority of municipal officers
of (name of municipality)

Sec. 21. 21-A MRSA §723, sub-§1, as amended by PL 1991, c. 244, is further amended to read:

1. Nominating event. In a primary election, caucus or convention, the person who receives a plurality of the votes cast for nomination to any office is nominated for that office, except for write-in candidates under paragraph A.

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

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

2 B. The Secretary of State shall immediately certify by mail
the nomination of each person nominated by the primary
4 election, caucus or convention.

6 **Sec. 22. 21-A MRSA §782**, as enacted by PL 1985, c. 161, §6,
is amended to read:

8

10 **§782. Absentee ballot; procedure on return**

12 On receipt of a return envelope apparently containing an
absentee ballot, the clerk shall note the date and time of
14 delivery on it and deliver it to the registrar. The registrar
shall certify on the envelope whether the person whose name
16 appears as sender is registered and, if applicable in a primary
election, enrolled in the municipality. ~~He~~ The registrar shall
then return the envelope to the clerk.

18

20 **Sec. 23. 21-A MRSA §812, sub-§5**, as enacted by PL 1985, c.
161, §6, is amended to read:

22 **5. Voting restricted at primary.** It must prevent a voter
from voting for the nomination of candidates of more than one
24 party, if applicable, at a primary election.

26 **Sec. 24. 21-A MRSA §825, sub-§1**, as enacted by PL 1985, c.
161, §6, is amended to read:

28

30 **1. Primary election.** In a primary election, the warden or,
in ~~his~~ the absence of the warden, a designated election clerk
must activate each voting machine so that a voter can vote only
32 for the candidates of the political party in which ~~he is enrolled~~
that voter is entitled to vote.

34

36 **Sec. 25. 21-A MRSA §843, sub-§4**, as enacted by PL 1985, c.
161, §6, is amended to read:

38 **4. Voting restricted at primary.** It must prevent a voter
from voting for the nomination of candidates of ~~more than one~~
40 party parties that a voter is not entitled to vote for at a
primary election.

42

44 **Sec. 26. 21-A MRSA §1017, sub-§10** is enacted to read:

46 **10. Primary election.** For purposes of this section,
"primary election" includes a caucus or convention held for the
purposes of nominating a candidate for the general election.

48

50 **Sec. 27. 21-A MRSA §1051**, as amended by PL 1991, c. 839, §26,
and affected by §33, is further amended by adding at the end a
new paragraph to read:

52

2 For purposes of this subchapter, the term "primary election"
3 includes a caucus or convention held for the purposes of
4 nominating a candidate for the general election.

6
8 **STATEMENT OF FACT**

10 This bill allows a political party to choose the method of
11 nominating candidates for an election for federal, state or
12 county offices. The party must notify the Secretary of State
13 within 6 weeks of the nominating event of the choice for the
14 event. This bill also changes the time frame for a political
 party to choose who may participate in their nominating event.