

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 729

H.P. 574

House of Representatives, February 13, 2001

An Act to Amend the Laws Governing Presidential Primaries.

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative TESSIER of Fairfield.
Cosponsored by Senator GAGNON of Kennebec and
Representatives: BLISS of South Portland, DUPLESSIE of Westbrook.

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

4 **Sec. 1. 21-A MRSA §335, sub-§6**, as enacted by PL 1985, c. 161,
§6, is amended to read:

6 **6. When signed.** A Except for the provisions of subchapter
7 VII, a petition may not be signed before January 1st of the
8 election year in which it is to be used.

10 **Sec. 2. 21-A MRSA §335, sub-§8**, as amended by PL 1995, c. 459,
12 §23, is further amended to read:

14 **8. When filed.** A Except for the provisions of subchapter
16 VII, a primary petition must be filed in the office of the
Secretary of State before 5 p.m. on March 15th of the election
year in which it is to be used.

18 **Sec. 3. 21-A MRSA §417** is enacted to read:

20 **§417. Repeal**

22 This subchapter is repealed on July 1, 2003.

24 **Sec. 4. 21-A MRSA c. 5, sub-c. VII** is enacted to read:

26 **SUBCHAPTER VII**

28 **PRESIDENTIAL PRIMARY ELECTIONS**

30 **§431. Determination and date of primary**

32 1. Determination of primary. Whenever the state committee
34 of a political party certifies that there is a contest among
candidates for nomination as the presidential candidate of the
36 party and that the committee has voted to conduct a presidential
primary election, the State shall hold a presidential primary
38 election. The election may not be held earlier than January 1st
of the year in which the presidential election is held.

40 2. Date of primary. The date of the presidential primary
42 must be chosen in the following manner.

44 A. If a determination is made pursuant to subsection 1 for
one party and that party chooses a date, the State shall
46 hold the presidential primary election on that date. The
party shall deliver to the Secretary of State notification
48 of the chosen date by December 1st of the year prior to the
election.

2 B. If a determination is made pursuant to subsection 1 for
4 more than one party and those parties agree to one date by
November 1st of the year prior to the election, the State
shall hold the presidential primary election on that date.

6 C. If a party does not choose a date pursuant to paragraph
8 A or there is no agreement on a date pursuant to paragraph
10 B, then the State shall hold the presidential primary
12 election on the first Tuesday in March, or on the same date
as the presidential primary election for the state of New
Hampshire, whichever is earlier, provided that the election
is held in the presidential election year.

14 **§432. Party certification**

16 The state committee of a political party shall file the
18 certification described in section 431, subsection 1 with the
Secretary of State by December 1st of the year prior to the
election. This certification must contain the following:

20 1. Statement of contest. A statement that there is a
22 contest among candidates for nomination as the presidential
candidate of the party;

24 2. Identification of contestants. Identification of at
26 least 2 candidates that have declared as contestants for
nomination as the presidential candidate of the party; and

28 3. Statement of committee vote. A statement that the state
30 committee of a political party has voted to conduct a
presidential primary election.

32 **§433. Petitions**

34 On or before July 1st of the year preceding each
36 presidential election year, the Secretary of State shall prepare
38 and make available petitions for circulation by a person desiring
to be a contestant in the Maine presidential primary of any
40 party. This petition must be completed and filed 45 days before
the primary election in the manner provided in sections 335 and
336.

42 **§434. Ballot preparation**

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

48 **§435. Candidate eligibility**

2 1. Petitions. The ballots must include the name of a
4 person who files with the Secretary of State a petition obtained
6 under section 433 and completed in accordance with sections 335
and 336. The Secretary of State shall determine if a petition
meets the requirements of those sections, subject to challenge
and appeal under section 337.

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

12 A. A ballot must include the name of a person who is a
14 member of a political party that has qualified under
16 subchapter I and who has been determined by the Secretary of
18 State, in the Secretary of State's sole discretion, to be
20 generally advocated or recognized as a presidential
candidate of nationwide stature in the national news media
throughout the United States. This subsection may not be
construed to include so-called "favorite son" candidates
whose candidacy may be limited to one state.

22 B. The Secretary of State shall determine who will be
24 placed on the ballot under this subsection at least 30 days
26 before the ballots are prepared. The Secretary of State
28 shall promptly notify a person that the person's name will
appear on the ballot and advise that person of the steps
that the person must take if the person does not wish to
appear on the ballot.

30 C. A person who the Secretary of State determines should be
32 placed on the ballot under this subsection may have the
34 person's name withdrawn from the ballot by filing an
36 affidavit with the Secretary of State in which the person
designated swears an oath that the person requests that the
person's name be omitted from the ballot.

38 In order to remove a person's name from the ballot, the
40 affidavit must be received by the Secretary of State at
least 45 days before the date designated for the
presidential primary election.

42 **§436. Selection of delegates**

44 If a party chooses to participate in a presidential primary
46 election under this chapter, delegates to national presidential
48 nominating conventions are selected by the state parties meeting
in convention under subchapter I, article III at any time after
the presidential primary.

2 The methods and procedures for selection of delegates must
3 be according to reasonable procedures established at the state
4 party convention. In the absence of any procedures established
5 by state or national party rules, the allocation must be as
6 follows.

7 1. Proportional allocation. Delegates to the national
8 convention must be allocated proportionately among the candidate
9 votes and the uncommitted votes cast in the presidential primary
10 of the party.

11 A. A candidate receiving 10% or more of the total votes for
12 candidates or uncommitted is allocated a share of delegates
13 that approaches, as closely as possible, the respective
14 share of the total vote.

15 B. The percentages of votes attributable to candidates
16 receiving less than 10% of the total vote must be added to
17 the total percentage of uncommitted votes for the purpose of
18 allocating delegates.

19 2. Uncommitted delegates. A delegate elected as an
20 uncommitted delegate may support any presidential candidate at
21 any time and may change support for this candidate in the
22 delegate's sole discretion.

23 3. Committed delegates. A delegate elected for a
24 particular presidential candidate according to the proportional
25 allocation specified by this section shall vote for that
26 candidate on the first ballot at the national nominating
27 convention, unless the state committee of the party affirmatively
28 votes to follow another procedure or if, prior to the filing of
29 the certification under section 431 and 432, the candidate for
30 whom a particular delegate is elected specifically withdraws, as
31 verified by the chair of the national party, from consideration
32 for the presidential nomination at any time before the first
33 ballot at the national nominating convention.

34 **§437. Cost**

35 Whenever a municipality complies with the provisions of this
36 subchapter, the State shall bear the cost incurred.

37 **§438. Effective date**

38 This subchapter takes effect July 1, 2003.

39 Sec. 5. 21-A MRS §601-A, as amended by PL 1999, c. 426,
40 §18, is further amended to read:

2 **§601-A. Presidential primary ballot**

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

6 **1. Arrangement.** The ballot must be arranged in a manner
that is as consistent and uniform as possible throughout the
8 State.

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

12 A. Instructions must be printed in bold type at the top of
14 the ballot informing the voter how to designate the voter's
choice on the ballot.

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

24 D. There must be a place on the ballot for the voter to
26 designate the voter's choice.

28 E. There must be a heading on the ballot that contains the
title of the election, the name of the political party, the
30 name of the voting district or districts for which the
ballot was prepared, the date of the election and a
32 facsimile of the state seal.

34 F. At the end of the list of candidates for nomination,
there must be printed the word "uncommitted" in such a way
36 that a voter may choose this preference rather than a listed
candidate.

38 G. At the end of the list of candidates for nomination and
40 after the "uncommitted" option, there may not be any blank
spaces left where a voter could write in the name or place a
42 sticker containing the name of any person for whom a voter
desires to vote.

44 **3. Distinctively colored.** The ballots must be printed
46 separately for each political party on paper of a distinctive
color: white for the party that cast the greatest number of
48 votes for Governor at the last gubernatorial election and yellow
for the 2nd highest. The Secretary of State shall choose a
50 distinctive color for ballots for any other political party.

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SUMMARY

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This bill amends the presidential primary process by allowing the parties to choose whether they want a primary or a caucus and allows uncommitted voters to vote in a primary.