

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 265

S.P. 85

In Senate, January 18, 2005

### An Act To Establish Instant Run-off Voting

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator STRIMLING of Cumberland.  
Cosponsored by Representatives: CUMMINGS of Portland, MARLEY of Portland and  
Senators: BRENNAN of Cumberland, DAMON of Hancock, MITCHELL of Kennebec,  
Representatives: DUDLEY of Portland, FISHER of Brewer, PATRICK of Rumford,  
PINGREE of North Haven.

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

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

6 **21-A. Instant run-off voting method.** "Instant run-off  
8 voting method" means a method of casting and tabulating votes  
10 that simulates the ballot counts that would occur if all voters  
12 participated in a series of run-off elections and that allows  
14 voters to rank candidates according to their preferences.

16 **Sec. 2. 21-A MRSA §1, sub-§27-C** is enacted to read:

18 **27-C. Offices subject to instant run-off voting method.**  
20 "Offices subject to the instant run-off voting method" means the  
22 offices of President, Vice President, United States Senator,  
24 United States Representative to Congress, Governor, State Senator  
26 and State Representative.

28 **Sec. 3. 21-A MRSA §601, sub-§2. ¶J** is enacted to read:

30 J. For offices subject to the instant run-off voting  
32 method, the ballot must be simple and easy to understand and  
34 allow a voter to rank candidates for an office in order of  
36 choice. A voter may include no more than one write-in  
38 candidate among that voter's ranked choices for each  
40 office. If feasible, ballots must be designed so that a  
42 voter may mark that voter's first choices in the same manner  
44 as that for offices not elected by the instant run-off  
46 voting method.

48 Instructions on the ballot must conform substantially to the  
following specifications, although subject to modification  
based on ballot design and voting machine:

"Vote for candidates by indicating your first-choice  
candidate and ranking additional candidates in order of  
preference. Indicate your first choice by marking the  
number "1" beside a candidate's name, your 2nd choice by  
marking the number "2" beside a candidate's name, your 3rd  
choice by marking the number "3" beside a candidate's name  
and so on, for as many choices as you wish. You may choose  
to rank only one candidate, but ranking additional  
candidates will not help defeat your first-choice  
candidate. Do not mark the same number beside more than one  
candidate. Do not skip numbers."

**Sec. 4. 21-A MRSA §603, sub-§1. ¶C** is enacted to read:

2           C. A sample ballot for an office subject to the instant  
3           run-off voting method must illustrate the voting procedure  
4           for the instant run-off voting method.

6           **Sec. 5. 21-A MRSA §603, sub-§7** is enacted to read:

8           7. Include with absentee ballot. A clerk shall provide a  
9           sample ballot with each absentee ballot.

10          **Sec. 6. 21-A MRSA §625**, as amended by PL 1997, c. 436, §87,  
11          is further amended by adding at the end a new paragraph to read:

12           The clerk shall post a sample ballot in or near each voting  
13           booth on election day.

14          **Sec. 7. 21-A MRSA §722, sub-§1**, as amended by PL 2001, c. 516,  
15          §13, is further amended to read:

16           **1. How tabulated.** The Secretary of State shall tabulate  
17           all votes that appear by an election return to have been cast for  
18           each question or candidate whose name appeared on the ballot.  
19           For offices subject to the instant run-off voting method, the  
20           Secretary of State must tabulate the votes according to the  
21           instant run-off voting method described in section 726. All  
22           write-in candidates, as defined in section 1, subsection 51,  
23           receiving less than 5% of the votes cast for that office must be  
24           titled "others" when the tabulation is processed.

25          **Sec. 8. 21-A MRSA §723, sub-§2.** as amended by PL 2001, c. 516,  
26          §15, is further amended to read:

27           **2. Other elections.** In any other election, the person who  
28           receives a plurality of the votes cast for election to any  
29           office, as long as there is at least one vote cast for that  
30           office, is elected to that office, except that ~~write-in~~  
31           ~~candidates-must-also-comply-with-section-722-A.;~~

32           A. Write-in candidates must also comply with section 722-A;  
33           and

34           B. For offices subject to the instant run-off voting  
35           method, the person who is determined to be the winner under  
36           the instant run-off voting method described in section 726  
37           is elected to that office.

38          **Sec. 9. 21-A MRSA §726** is enacted to read:

39          **§726. Instant run-off voting method**

2 1. Procedures. The following procedures are used to  
3 determine the winner in an election for an office subject to the  
4 instant run-off voting method.

5  
6 A. The first choice marked on each ballot must be counted  
7 initially by the election officials. The ballot count is  
8 the same as the count that would occur if voters  
9 participated in a series of run-off elections, with the  
10 weakest candidate eliminated after each round of counting.

11  
12 B. In every round of counting, each ballot is counted as  
13 one vote for that ballot's highest-ranked advancing  
14 candidate. "Advancing candidate" means a candidate for an  
15 office who has not been eliminated. If more than 2  
16 candidates have received votes after the initial round of  
17 counting, the Secretary of State shall conduct an instant  
18 run-off round. In this instant run-off round, the Secretary  
19 of State shall eliminate the candidate with the fewest  
20 votes. A ballot that ranks this eliminated candidate as the  
21 highest-ranked candidate must be counted as a vote for the  
22 highest-ranked advancing candidate on that ballot. This  
23 process of counting votes and eliminating the candidate with  
24 the fewest votes must continue until 2 candidates remain.  
25 The candidate with the most votes then must be declared the  
26 winner.

27  
28 C. If a ballot has no more available choices ranked on it,  
29 that ballot must be declared exhausted. A ballot that skips  
30 one number must be counted for that voter's next clearly  
31 indicated choice, but a ballot that skips more than one  
32 number must be declared exhausted when this skipping of  
33 numbers is reached. A ballot with the same number for 2 or  
34 more candidates must be declared exhausted when these double  
35 numbers are reached.

36 D. For ties between candidates occurring at any stage in  
37 the tabulation, determinations must be made based on  
38 whomever was credited with the most votes at the previous  
39 stage of tabulation. In the case of any tie to which a  
40 previous stage does not apply, the tie must be resolved in  
41 accordance with the general election laws of the State.

42  
43 2. Change of voting method. The legislative body of a  
44 municipality or election authorities may provide for the use of  
45 mechanical, electronic or other devices for marking, sorting and  
46 counting the ballots and tabulating the results and may modify  
47 the form of the ballots, the directions to voters and the details  
48 with respect to the method of marking, sorting, counting,  
49 invalidating and retaining ballots and the tabulating and

2 recounting of votes, as long as no change is made that alters the  
3 intent or principles embodied in this section.

4 **3. Modification of instant run-off voting method ballot and**  
5 **count.** Modification of an instant run-off voting method ballot  
6 and count is permitted in accordance with the following.

8 A. If the Secretary of State determines that the number of  
9 candidates for a particular office exceeds the practical  
10 space requirements for ranking all candidates on the ballot,  
11 the number of allowable rankings may be limited to no fewer  
12 than 5 candidates.

14 B. More than one candidate may be eliminated simultaneously  
15 if the number of total votes credited for those candidates  
16 is fewer than the number of total votes credited for the  
17 candidate with the next greatest number of votes.

18 **4. Effect on rights of political parties.** For all  
19 statutory and constitutional provisions in the State pertaining  
20 to the rights of political parties, the number of votes cast for  
21 a party's candidate for a particular office is the number of  
22 votes credited to that candidate after the initial round of  
23 counting.

26 **Sec. 10. 21-A MRSA §805. sub-§2.** as enacted by PL 1985, c.  
27 161, §6, is amended to read:

28 **2. Presidential electors.** The presidential electors at  
29 large shall cast their ballots for the presidential and  
30 vice-presidential candidates who ~~received the largest number of~~  
31 ~~votes in~~ were declared the winners pursuant to section 726 for  
32 the State. The presidential electors of each congressional  
33 district shall cast their ballots for the presidential and  
34 vice-presidential candidates who ~~received the largest number of~~  
35 votes ~~were~~ declared the winners pursuant to section 726 in each  
36 respective congressional district.

## 40 SUMMARY

42 This bill creates the instant run-off voting method of  
43 determining winners in elections for President, Vice President,  
44 United States Senator, United States Representative to Congress,  
45 Governor, State Senator and State Representative. The method  
46 simulates the ballot counts that would occur if all voters  
47 participated in a series of run-off elections and allows a voter  
48 to rank candidates according to that voter's preferences. Each  
49 voter has only one vote for each office, and the ballot count is  
50 the same as would occur if voters participated in a series of

run-off elections, with the weakest candidate eliminated after  
2 each round of counting.

4       There is an initial round of counting. If more than 2  
6 candidates have received votes after the initial round, the  
8 Secretary of State conducts an instant run-off round. In this  
10 instant run-off round, the Secretary of State eliminates the  
12 candidate with the fewest votes. A ballot that ranks this  
14 eliminated candidate as the highest-ranked candidate is counted  
as a vote for the highest-ranked advancing candidate on that  
ballot. An advancing candidate is a candidate who has not been  
eliminated. This process of counting votes and eliminating the  
candidate with the fewest votes continues until 2 candidates  
remain. The candidate with the most votes is declared the winner.

16       For the presidential and vice-presidential elections, the  
18 instant run-off voting method is conducted to determine winners  
for the entire State as well as in each congressional district.