

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 720

H.P. 515

House of Representatives, February 10, 2005

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**RESOLUTION, Proposing an Amendment to the Constitution of  
Maine To Give the Supreme Judicial Court Authority To Decide  
Contested Elections Results**

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative TARDY of Newport.  
Cosponsored by Senator RAYE of Washington, Senator DAVIS of Piscataquis and  
Representatives: CURLEY of Scarborough, FLETCHER of Winslow, Senator: MILLS of  
Somerset.

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

6           **Constitution, Art. IV, Pt. First, §5** is amended to read:

8           **Section 5. Election of Representatives; lists of votes**  
delivered forthwith; lists of votes examined by Governor; summons  
10 of persons who appear to be elected; lists shall be laid before  
the House. The meetings within this State for the choice of  
12 Representatives shall be warned in due course of law by qualified  
officials of the several towns and cities 7 days at least before  
14 the election, and the election officials of the various towns and  
cities shall preside impartially at such meetings, receive the  
16 votes of all the qualified electors, sort, count and declare them  
in open meeting; and a list of the persons voted for shall be  
18 formed, with the number of votes for each person against that  
person's name. Cities and towns belonging to any Representative  
20 District shall hold their meetings at the same time in the  
respective cities and towns; and such meetings shall be notified,  
22 held and regulated, the votes received, sorted, counted and  
declared in the same manner. Fair copies of the lists of votes  
24 shall be attested by the municipal officers and the clerks of the  
cities and towns and the city and town clerks respectively shall  
26 cause the same to be delivered into the office of the Secretary  
of State forthwith. The Governor shall examine the returned  
28 copies of such lists and 7 days before the first Wednesday of  
December biennially, shall issue a summons to such persons as  
30 shall appear to have been elected by a plurality of all votes  
returned, to attend and take their seats. All such lists shall  
32 be laid before the House of Representatives on the first  
Wednesday of December biennially, and they shall finally  
34 ~~determine who are elected.~~

36           **Constitution, Art. IV, Pt. Second, §5** is amended to read:

38           **Section 5. Procedure for filling vacancies.** The Senate  
shall, on said first Wednesday of December, biennially determine  
40 who is elected by a plurality of votes to be Senator in each  
district. All vacancies in the Senate arising from death,  
42 resignation, removal from the State or like causes, and also  
vacancies, if any, which may occur because of the failure of any  
44 district to elect by a plurality of votes the Senator to which  
said district shall be entitled shall be filled by an immediate  
46 election in the unrepresented district. The Governor shall issue  
a proclamation therefor and therein fix the time of such election.

48           **Constitution, Art. VI, §7** is enacted to read:

**Section 7. Determination of contested election results.**

2 The Supreme Judicial Court shall determine an election for the  
4 Senate or House of Representatives of which the results are  
contested pursuant to procedures adopted by court rule.

6 ; and be it further

8  
10 **Constitutional referendum procedure; form of question; effective**  
**date. Resolved:** That the municipal officers of this State shall  
12 notify the inhabitants of their respective cities, towns and  
plantations to meet, in the manner prescribed by law for holding  
14 a statewide election, at a statewide election, on the Tuesday  
following the first Monday of November following the passage of  
this resolution, to vote upon the ratification of the amendment  
16 proposed in this resolution by voting upon the following question:

18 "Do you favor amending the Constitution of Maine to  
authorize the Supreme Judicial Court to decide contested  
20 election results for members of the Senate and the House of  
Representatives?"

22  
24 The legal voters of each city, town and plantation shall  
vote by ballot on this question and designate their choice by a  
cross or check mark placed within the corresponding square below  
26 the word "Yes" or "No." The ballots must be received, sorted,  
counted and declared in open ward, town and plantation meetings  
28 and returns made to the Secretary of State in the same manner as  
votes for members of the Legislature. The Governor shall review  
30 the returns and, if it appears that a majority of the legal votes  
are cast in favor of the amendment, the Governor shall proclaim  
32 that fact without delay and the amendment becomes part of the  
Constitution of Maine on the date of the proclamation; and be it  
34 further

36 **Secretary of State shall prepare ballots. Resolved:** That the  
Secretary of State shall prepare and furnish to each city, town  
38 and plantation all ballots, returns and copies of this resolution  
necessary to carry out the purposes of this referendum.

40 **SUMMARY**

42  
44 This resolution provides for the Supreme Judicial Court to  
decide contested elections for members of the Senate and the  
House of Representatives as is currently provided for all other  
46 elections.