

# MAINE STATE LEGISLATURE

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L.D. 1799

Date: 3/20/8

Majority

(Filing No. H-794)

**LEGAL AND VETERANS AFFAIRS**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
123RD LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1253, L.D. 1799, Bill, "An Act To Establish Open Ballot Voting in Maine"

Amend the bill by striking out the title and substituting the following:

**'An Act To Allow Cross-endorsement by Qualified Parties'**

Amend the bill by inserting after the title and before the enacting clause the following:

**'Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**'Sec. 1. 21-A MRSA §321, first ¶,** as amended by PL 2005, c. 387, §4, is further amended to read:

Each party shall hold a state convention between March 1st and August 1st 15th biennially during each general election year.

**Sec. 2. 21-A MRSA §334,** as amended by PL 1995, c. 459, §21, is further amended to read:

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

A candidate for nomination by primary election must file a ~~primary~~ nominating petition and consent under sections 335 and 336. The candidate must be enrolled, on or before March 15th, in the party named in the petition and must be eligible to file a

**COMMITTEE AMENDMENT**

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1 petition as a candidate for nomination by primary election under section 144, subsection  
2 3. The registrar in the candidate's municipality of residence must certify to that fact upon  
3 the petition.

4 **Sec. 3. 21-A MRSA §335**, as amended by PL 2005, c. 453, §§47 and 48, is further  
5 amended to read:

6 **§335. Petition requirements**

7 A ~~primary nominating~~ petition ~~shall~~ must be on a form provided by the Secretary of  
8 State and is governed by the following provisions.

9 **1. Content.** A ~~primary nominating~~ petition must contain the name of only one  
10 candidate, ~~his that candidate's~~ place of residence, ~~his that candidate's~~ party, ~~the party or~~  
11 ~~parties qualified under section 301 for which that candidate seeks the nomination,~~ the  
12 office sought and electoral division. A ~~primary nominating~~ petition may contain as many  
13 separate papers as necessary and may contain the candidate's consent required by section  
14 336.

15 A. When 2 United States Senators or 2 county commissioners are to be nominated,  
16 the ~~primary nominating~~ petition must contain the term of office sought by the  
17 candidate.

18 **2. By whom signed.** A ~~primary nominating~~ petition may be signed only by voters of  
19 the electoral division ~~which that~~ is to make the nomination and who are enrolled in the  
20 party ~~named in the petition in which the candidate is enrolled.~~ Other signatures are void.

21 **3. How signed.** The voter must personally sign ~~his~~ the voter's name in such a  
22 manner as to satisfy the registrar of ~~his~~ the voter's municipality that ~~he~~ the voter is a  
23 registered voter and enrolled in the party named on the petition. Either the voter or the  
24 circulator of the petition must print the voter's name.

25 **4. Residence.** The voter or the circulator of the petition must write or print the  
26 voter's residence address and municipality of registration. Ditto marks are permitted for  
27 residence address and municipality of registration only.

28 **5. Number of signatures required.** Petitions must be signed by the following  
29 numbers of voters, notwithstanding the number of parties for which the candidate seeks  
30 the nomination:

- 31 A. For candidate for Governor, at least 2,000 and not more than 3,000 voters;
- 32 B. For a candidate for United States Senator, at least 2,000 and not more than 3,000  
33 voters;
- 34 C. For a candidate for Representative to Congress, at least 1,000 and not more than  
35 1,500 voters;
- 36 D. For a candidate for county office other than county commissioner, at least 150  
37 and not more than 200 voters;
- 38 E. For a candidate for county commissioner, at least 50 and not more than 75 voters;
- 39 F. For a candidate for State Senator, at least 100 and not more than 150 voters; and
- 40 G. For a candidate for State Representative, at least 25 and not more than 40 voters.

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1       **6. When signed.** A petition may not be signed before January 1st of the election  
2 year in which it is to be used.

3       **7. Certification of petition.** A primary nominating petition shall must be verified  
4 and certified as follows.

5       A. The circulator of a primary nominating petition shall verify by oath or affirmation  
6 before a notary public or other person authorized by law to administer oaths or  
7 affirmations that all of the signatures to the petition were made in the circulator's  
8 presence and that to the best of the circulator's knowledge and belief each signature is  
9 the signature of the person whose name it purports to be; each signature authorized  
10 under section 153-A was made by the authorized signer in the presence and at the  
11 direction of the voter; and each person is enrolled in the party ~~named in the petition in~~  
12 which the candidate is enrolled and is a resident of the electoral division named in the  
13 petition.

14       B. The registrar, or clerk at the request or upon the absence of the registrar, of each  
15 municipality concerned shall certify which names on a petition appear in the central  
16 voter registration system as registered and enrolled voters in that municipality and  
17 may not certify any names that do not satisfy subsection 3.

18       **8. When filed.** A primary nominating petition must be filed in the office of the  
19 Secretary of State before 5 p.m. on March 15th of the election year in which it is to be  
20 used.

21       **9. Petition or names void.** A primary nominating petition ~~which that~~ does not meet  
22 the requirements of this section is void. If a voter or a circulator fails to comply with this  
23 section in signing or printing the voter's name and address, that voter's name may not be  
24 counted, but the petition is otherwise valid.

25       **Sec. 4. 21-A MRSA §336**, as amended by PL 1995, c. 459, §24, is further  
26 amended to read:

27       **§336. Consent of candidate to be filed**

28       The written consent of each candidate must be filed with ~~his primary~~ the candidate's  
29 nominating petition.

30       **1. Consent.** The consent must contain a statement signed by the candidate that ~~he~~  
31 the candidate will accept the nomination of the primary election. The statement may be  
32 printed as a part of the primary nominating petition.

33       **2. Single filing sufficient.** A candidate need file only one consent. This consent is  
34 valid even though it may be part of a primary nominating petition ~~which that~~ is void.

35       **3. Residence and party declared.** The consent must contain a declaration of the  
36 candidate's place of residence and party designation and a statement that the candidate  
37 meets the qualifications of the office the candidate seeks, which the candidate must verify  
38 by oath or affirmation before a notary public or other person authorized by law to  
39 administer oaths or affirmations that the declaration is true. If, pursuant to the challenge  
40 procedures in section 337, any part of the declaration is found to be false by the Secretary  
41 of State, the consent and the primary nominating petition are void.

**COMMITTEE AMENDMENT**

PLS

1        **Sec. 5. 21-A MRSA §337**, as amended by PL 2003, c. 447, §11, is further  
2 amended to read:

3        **§337. Review and challenge of petitions**

4        **1. Review.** When presented with a primary nominating petition, the Secretary of  
5 State shall review it and, if the petition contains the required number of certified names  
6 and is properly completed, shall accept and file it.

7        **2. Challenges.** The procedure for challenging the validity of a primary nominating  
8 petition or of names upon a petition is as follows.

9            A. Only a registered voter residing in the electoral division of the candidate  
10 concerned may file a challenge. The challenge must be in writing and must set forth  
11 the reasons for the challenge. The challenge must be filed in the office of the  
12 Secretary of State before 5 p.m. on the 5th business day after the final date for filing  
13 petitions under section 335, subsection 8.

14            B. Within 7 days after the final date for filing challenges and after due notice of the  
15 hearing to the candidate and to the challenger, the Secretary of State shall hold a  
16 public hearing on any challenge properly filed. The challenger has the burden of  
17 providing sufficient evidence to invalidate the petitions or any names upon the  
18 petitions.

19            C. The Secretary of State shall rule on the validity of any challenge within 5 days  
20 after the completion of the hearing described in paragraph B.

21            D. A challenger or a candidate may appeal the decision of the Secretary of State by  
22 commencing an action in the Superior Court. This action must be conducted in  
23 accordance with the Maine Rules of Civil Procedure, Rule 80C, except as modified  
24 by this section. This action must be commenced within 5 days of the date of the  
25 decision of the Secretary of State and must be tried, without a jury, within 10 days of  
26 the date of that decision. Upon timely application, anyone may intervene in this  
27 action when the applicant claims an interest relating to the subject matter of the  
28 petitions, unless the applicant's interest is adequately represented by existing parties.  
29 The court shall issue a written decision containing its findings of fact and conclusions  
30 of law and setting forth the reasons for its decision within 20 days of the date of the  
31 decision of the Secretary of State.

32            E. Any aggrieved party may appeal the decision of the Superior Court, on questions  
33 of law, by filing a notice of appeal within 3 days of that decision. The record on  
34 appeal must be transmitted to the Law Court within 3 days after notice of appeal is  
35 filed. After filing notice of appeal, the parties have 4 days to file briefs and  
36 appendices with the clerk of courts. As soon as the record and briefs have been filed,  
37 the court shall immediately consider the case. The court shall issue its decision  
38 within 14 days of the date of the decision of the Superior Court.

39        **Sec. 6. 21-A MRSA c. 5, sub-c. 2-A** is enacted to read:

40    **SUBCHAPTER 2-A**

PL 07/13

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**CROSS-ENDORSEMENT BY CONVENTION**

**§358. Cross-endorsement**

A candidate for any federal, state or county office may seek the nomination of any party in addition to the party in which the candidate is enrolled and a party may nominate by convention a candidate from another party who has sought the nomination of the party. Candidates are eligible for nomination by cross-endorsement by a party only if the candidate seeking cross-endorsement listed the party on nominating petitions under section 335 and collected the requisite number of signatures under section 335.

**§359. Time and nature of nominating convention**

A party shall hold a nominating convention no later than August 15th of each general election year.

**Sec. 7. 21-A MRSA §371**, as amended by PL 2007, c. 455, §15, is further amended to read:

**§371. Candidates for nomination**

If a candidate for nomination dies, withdraws at least 60 days before the primary or becomes disqualified after having filed the candidate's ~~primary~~ nominating petition, so that a party has fewer candidates than there are offices to be filled, the vacancy may be filled by a political committee pursuant to section 363. The Secretary of State shall declare the vacancy pursuant to section 362-A. A candidate for nomination may not withdraw less than 60 days before the primary election.

**Sec. 8. 21-A MRSA §601, sub-§2, ¶B**, as amended by PL 2007, c. 455, §18, is further amended to read:

B. The ballot must contain the legal name, without any title, and place of residence of each candidate, arranged alphabetically with the last name first, under the proper office designation. The initial letters of the last names of the candidates must be printed directly beneath each other in a vertical line. The names of candidates for any one office may not be split into more than one column regardless of number. ~~The~~ For the primary election, the name of each candidate may be printed on the ballot in only one space. For the general election ballot, the party or political designation of each candidate must be printed with each candidate's the name of a candidate nominated by more than one party must be printed once for each party. If a candidate is nominated by more than one party, the party in which the candidate is enrolled shall be listed first. The party or political designation may be abbreviated.

**Sec. 9. 21-A MRSA §696, sub-§4**, as amended by PL 2005, c. 404, §5, is further amended to read:

**4. Determination of choice possible.** If a voter marks the voter's ballot in a manner that differs from the instructions at the top of the ballot but in such a manner that it is possible to determine the voter's choice, then the vote for the office or question concerned must be counted. If a voter marks the ballot for the same candidate who has been endorsed by more than one party more than once for the same office, the voter's choice

**Reps.**

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1 must be counted as if the voter cast one vote for that candidate and for the party for which  
2 the candidate is enrolled.'

3 **SUMMARY**

4 This amendment, which is the majority report, replaces the bill. It permits any  
5 qualified political party to cross-endorse a candidate in another party who has met all the  
6 requirements to be a candidate in a state, county or federal election and who has sought  
7 the endorsement of that party. A party that wishes to cross-endorse a candidate from  
8 another party must do so by convention.

9 **FISCAL NOTE REQUIRED**  
10 (See attached)

**COMMITTEE AMENDMENT**



# 123rd MAINE LEGISLATURE

LD 1799

LR 1294(02)

## An Act To Establish Open Ballot Voting in Maine

**Fiscal Note for Bill as Amended by Committee Amendment "A"**

**Committee: Legal and Veterans Affairs**

**Fiscal Note Required: Yes**

### Fiscal Note

State Mandate - Unfunded

#### State Mandates

**Required Activity**

Requiring the names of candidates nominated by more than one party to be listed on the ballot once for each party will require municipalities to change the coding for optical scan tabulating machines. There are 217 machines for which the coding cost will be \$7.50 per each additional line. Assuming one additional line per election, the total cost for these machines would equal \$1,628. There are an additional 104 machines for which the cost is unknown. Assuming one line per election, with a low range cost of \$7.50 per line and a high range cost of \$15 per line, the range would be \$780 to \$1,560.

**Unit Affected**

Municipality

**Costs**

Significant

#### Fiscal Detail and Notes

Additional costs to the Secretary of State can be absorbed within existing budgeted resources.