

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1799

H.P. 1253

House of Representatives, March 29, 2007

An Act To Establish Open Ballot Voting in Maine

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PINGREE of North Haven.
Cosponsored by President EDMONDS of Cumberland and
Representatives: CAIN of Orono, Speaker CUMMINGS of Portland, FAIRCLOTH of Bangor,
PATRICK of Rumford, TRINWARD of Waterville, TUTTLE of Sanford, Senators:
MITCHELL of Kennebec, STRIMLING of Cumberland.

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

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

4 **24. Minor party.** "Minor party" means a political party other than a major party that
5 qualifies for minor party status under section 301, subsection 3, paragraph A.

6 **Sec. 2. 21-A MRSA §23, sub-§3**, as enacted by PL 1985, c. 161, §6, is amended
7 to read:

8 **3. Nominating petitions.** The Secretary of State shall keep ~~primary petitions,~~
9 ~~nominating~~ nominating petitions and consents in ~~his~~ the Secretary of State's office for 2
10 years.

11 **Sec. 3. 21-A MRSA §144, sub-§3**, as amended by PL 1995, c. 459, §16, is
12 further amended to read:

13 **3. Restrictions during change of enrollment.** Except as provided in subsection 4, a
14 voter may not vote at a caucus, convention or primary election for 15 days after filing an
15 application to change enrollment. ~~A voter must file an application to change enrollment~~
16 ~~prior to January 1st to be eligible to file a petition as a candidate in that election year.~~

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

19 **4. Change of residence.** When a voter changes ~~his~~ residence from one municipality
20 to another and establishes a new voting residence there, ~~he~~ the voter may enroll in any
21 party and vote at a caucus, convention or primary election, ~~or file a petition as a candidate~~
22 ~~for nomination by primary election,~~ regardless of ~~his~~ the voter's previous enrollment.

23 **Sec. 5. 21-A MRSA §301, sub-§2**, as enacted by PL 1985, c. 161, §6, is amended
24 to read:

25 **2. General election.** A party ~~which~~ that qualifies under subsection 1 to participate in
26 a primary election must, in that same year, hold a state convention as prescribed by
27 Article ~~III~~ 3 in order to have the party designation of its candidates printed on the ballot
28 in the general election of that year. A party that qualifies under subsection 3 to nominate
29 by convention must, in that same year, hold a state convention as prescribed by Article 3
30 in order to have the party designation of its candidates printed on the ballot in the general
31 election of that year.

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

33 **3. Nomination by convention.** A party qualifies to nominate by convention if it
34 qualifies as a minor party under this section.

35 A. The party has filed a declaration of intent with the Secretary of State, or has on
36 file an existing declaration of intent with the Secretary of State, that indicates the

1 party's intention to operate as a minor party, and the party held a state convention as
2 prescribed by Article 3 during the election year in which the designation was listed
3 on the ballot and any interim year, and one of the following occurred:

4 (1) Its candidate for Governor or President received at least 2 1/2% of the total
5 vote cast in the State for Governor or President in either of the 2 preceding
6 general elections; or

7 (2) The party obtains signatures in the amount and manner described in section
8 303-A between January 1st of the year preceding a general election and January
9 1st of that general election year.

10 Each minor party state committee shall file a statement with the Secretary of State on or
11 before June 20th certifying that the party has held the state convention required by
12 paragraph A. The statement must be signed by the party chair or the chair's designated
13 agent.

14 **Sec. 7. 21-A MRSA §303-A is enacted to read:**

15 **§303-A. Formation of new minor party**

16 A party whose designation was not listed on the general election ballot in the last
17 preceding general election qualifies to nominate by convention, if it meets the
18 requirements of subsections 1, 2 and 3 or if it meets the requirements of subsections 4, 5,
19 6 and 7.

20 **1. Declaration of intent.** A voter or a group of voters not enrolled in a party
21 qualified under section 301 must file a declaration of intent to form a party with the
22 Secretary of State before 5 p.m. on the 180th day preceding the next primary election.
23 The declaration of intent must be on a form designed by the Secretary of State and must
24 include:

25 A. The designation of the proposed party;

26 B. The name of a candidate for Governor or for President in the last preceding
27 general election who was nominated by primary election, petition or convention
28 under subchapter 2 and who received 2 1/2% or more of the total vote cast in the
29 State for Governor or for President in that election; and

30 C. The name, address, telephone number, if published, and signature of the voter or
31 one of the group of voters who files the declaration of intent.

32 **2. Enrollment of voters.** After filing the declaration described in subsection 1, the
33 voter or voters proposing to form the party may then enroll voters in the proposed party
34 under sections 141 to 145.

35 **3. Convention.** A party that has qualified under subsections 1 and 2 to nominate by
36 convention must in that same year hold a state convention as prescribed by Article 3 in
37 order to have the party designation of its candidates printed on the ballot in the general
38 election of that year. The voter or group of voters who files the declaration of intent may
39 perform the duties of the state committee under section 321, subsection 1 for the party's
40 initial convention.

1 4. Declaration of intent. Ten or more voters who are not enrolled in a party
2 qualified under section 301 must file a declaration of intent to form a party with the
3 Secretary of State. The declaration of intent must be on a form designed by the Secretary
4 of State and must include:

5 A. The designation of the proposed party; and

6 B. The names, addresses, telephone numbers, if published, and signatures of the
7 voters who file the declaration of intent.

8 5. Enrollment of voters. After filing the declaration of intent required in subsection
9 1, the voter or voters proposing to form the party may then enroll voters in the proposed
10 party under sections 141 to 145.

11 6. Petition. After the filing of the declaration described in subsection 5, the
12 Secretary of State or the Secretary of State's designee shall review the declaration and
13 determine the form of the petitions to be submitted to the voters. The voter or voters
14 proposing to form the party shall print the petitions in the form approved by the Secretary
15 of State and may then circulate the petitions. These petitions must be signed, verified and
16 certified in the same manner as primary petitions under section 335, subsections 3, 4 and
17 7, except that any registered voter may sign the petitions. Each page of the petition must
18 have a caption, in conspicuous type, that contains the designation of the proposed party
19 followed by the words, "Petition to nominate by convention." The petitions must be filed
20 in the office of the Secretary of State before 5 p.m. on the 180th day preceding a primary
21 election and must contain the signatures and legal addresses of voters equal in number to
22 at least 2 1/2% of the total vote cast in the State for Governor at the last preceding
23 gubernatorial election. Petitions must be submitted to the appropriate municipal registrar
24 for certification by 5 p.m. on the 10th day before the petition must be filed in the office of
25 the Secretary of State or, if the 10th day is a Saturday, Sunday or legal holiday, by 5 p.m.
26 on the next day that is not a Saturday, Sunday or legal holiday. The registrar must
27 complete the certification of the petitions and must return them to the circulators or their
28 agents within 5 days of the date on which the petitions were submitted. If the 5th day is a
29 Saturday, Sunday or legal holiday, then the certification must be returned on the next day
30 that is not a Saturday, Sunday or legal holiday.

31 7. Convention. A party that has qualified under subsections 4 and 6 to nominate by
32 convention must in that same year hold a state convention as prescribed by Article 3 in
33 order to have the party designation of its candidates printed on the ballot in the general
34 election of that year. The voter or group of voters who files the declaration of intent may
35 perform the duties of the state committee under section 321, subsection 1 for the party's
36 initial convention.

37 **Sec. 8. 21-A MRSA §304-A** is enacted to read:

38 **§304-A. Change of status from a minor party to a major party**

39 A qualified minor party may not become a major party unless the party files a
40 declaration of intent under section 302, subsection 1, regardless of the actual number of
41 votes for Governor cast in the preceding gubernatorial election.

1 **Sec. 9. 21-A MRSA §304-B** is enacted to read:

2 **§304-B. Change of status from a major party to a minor party**

3 A qualified major party may not petition to become a minor party unless that major
4 party is disqualified under section 304.

5 **Sec. 10. 21-A MRSA §321, sub-§3** is enacted to read:

6 **3. Proceedings at a minor party convention.** The minor party convention must do
7 the following:

8 A. Elect a secretary and a chair of the convention in that order;

9 B. Adopt a platform for the next general election;

10 C. Nominate the number of presidential electors to which the State is entitled in the
11 year of a presidential election;

12 D. Determine the size of the state committee and the method of its election;

13 E. Nominate candidates who have qualified for nomination by convention and have
14 chosen to seek the nomination of the minor party; and

15 F. Adopt rules to govern the congressional district, county and municipal committee
16 structure of the minor party.

17 **Sec. 11. 21-A MRSA §331**, as amended by PL 1997, c. 436, §47, is further
18 amended to read:

19 **§331. Method of nomination**

20 **1. Nomination by primary election.** A major party's nomination of a candidate for
21 any federal, state or county office shall **must** be made by primary election, as provided in
22 this Article.

23 **1-A. Nomination by convention.** A minor party's nomination of a candidate for any
24 federal, state or county office must be made by nominating convention, as provided in
25 Article 3.

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

27 A. Nominations for presidential electors;

28 B. Nominations to fill vacancies under subchapter H 3; and

29 C. Nominations by petition under subchapter H 2.

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

32 A. A person may not file, whether by primary election, nomination by convention
33 or nomination petition, as a candidate for more than one federal, state or county

1 office at any election, except for a candidate for membership in a county charter
2 commission or a candidate for presidential elector under section 351, subsection 3.

3 B. A person may file as a candidate for any federal, state or county office either by
4 primary election, nomination by convention or nomination petition but not by both,
5 except for a candidate for membership in a county charter commission under section
6 351, subsection 3.

7 **Sec. 12. 21-A MRSA §333**, as enacted by PL 1985, c. 161, §6, is amended to
8 read:

9 **§333. Qualification for county office**

10 A candidate for any county office must be a resident of and a voter in the electoral
11 division ~~he~~ the candidate seeks to represent on the date established for filing ~~primary~~
12 nominating petitions in the year ~~he~~ the candidate seeks election. ~~He~~ The candidate must
13 maintain a voting residence in that electoral division during ~~his~~ the candidate's term of
14 office.

15 **Sec. 13. 21-A MRSA §334**, as amended by PL 1995, c. 459, §21, is further
16 amended to read:

17 **§334. Qualification of candidate for primary nomination or nomination by**
18 **convention**

19 A candidate for nomination by primary election or nominating convention must file a
20 primary nominating petition and consent under sections 335 and 336. ~~The candidate must~~
21 ~~be enrolled, on or before March 15th, in the party named in the petition and must be~~
22 ~~eligible to file a petition as a candidate for nomination by primary election under section~~
23 ~~144, subsection 3. The registrar in the candidate's municipality of residence must certify~~
24 ~~to that fact upon the petition. A candidate for nomination does not have to be enrolled in~~
25 the party or parties named in the petition.

26 **Sec. 14. 21-A MRSA §335**, as amended by PL 2005, c. 453, §§47 and 48, is
27 further amended to read:

28 **§335. Petition requirements**

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

31 **1. Content.** A primary nominating petition must contain the name of only one
32 candidate, ~~his~~ that candidate's place of residence, ~~his~~ that candidate's party, the qualified
33 major or minor party or parties for which that candidate seeks the nomination, the office
34 sought and electoral division. A primary nominating petition may contain as many
35 separate papers as necessary and may contain the candidate's consent required by section
36 336.

- 1 A. When 2 United States Senators or 2 county commissioners are to be nominated,
2 the ~~primary~~ nominating petition must contain the term of office sought by the
3 candidate.
- 4 **2. By whom signed.** A ~~primary~~ nominating petition may be signed only by voters of
5 the electoral division ~~which~~ that is to make the nomination and who are enrolled in the
6 party or parties named in the petition. Other signatures are void.
- 7 **3. How signed.** The voter must personally sign ~~his~~ the voter's name in such a
8 manner as to satisfy the registrar of ~~his~~ the voter's municipality that ~~he~~ the voter is a
9 registered voter and enrolled in the party named on the petition. Either the voter or the
10 circulator of the petition must print the voter's name.
- 11 **4. Residence.** The voter or the circulator of the petition must write or print the
12 voter's residence address and municipality of registration. Ditto marks are permitted for
13 residence address and municipality of registration only.
- 14 **5. Number of signatures required.** Petitions must be signed by the following
15 numbers of voters, notwithstanding the number of parties for which the candidate seeks
16 the nomination:
- 17 A. For candidate for Governor, at least 2,000 and not more than 3,000 voters;
18 B. For a candidate for United States Senator, at least 2,000 and not more than 3,000
19 voters;
20 C. For a candidate for Representative to Congress, at least 1,000 and not more than
21 1,500 voters;
22 D. For a candidate for county office other than county commissioner, at least 150
23 and not more than 200 voters;
24 E. For a candidate for county commissioner, at least 50 and not more than 75
25 voters;
26 F. For a candidate for State Senator, at least 100 and not more than 150 voters; and
27 G. For a candidate for State Representative, at least 25 and not more than 40 voters.
- 28 **6. When signed.** A petition may not be signed before January 1st of the election
29 year in which it is to be used.
- 30 **7. Certification of petition.** A ~~primary~~ nominating petition ~~shall~~ must be verified
31 and certified as follows.
- 32 A. The circulator of a ~~primary~~ nominating petition shall verify by oath or
33 affirmation before a notary public or other person authorized by law to administer
34 oaths or affirmations that all of the signatures to the petition were made in the
35 circulator's presence and that to the best of the circulator's knowledge and belief each
36 signature is the signature of the person whose name it purports to be; each signature
37 authorized under section 153-A was made by the authorized signer in the presence
38 and at the direction of the voter; and each person is enrolled in the party named in the
39 petition and is a resident of the electoral division named in the petition.

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

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

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

12 **Sec. 15. 21-A MRSA §339-A** is enacted to read:

13 **§339-A. Time and nature of nominating convention**

14 A minor party shall hold a nominating convention no sooner than June 1st of each
15 general election year and no later than the Saturday following the 2nd Tuesday of June of
16 each general election year. Candidates are eligible for nomination by minor party
17 convention only if the candidate listed the minor party on nominating petitions under
18 section 335 and collected the requisite number of signatures under section 335.

19 **Sec. 16. 21-A MRSA §355, sub-§3,** as amended by PL 1999, c. 645, §2, is
20 further amended to read:

21 **3. Qualifications declared.** The consent must contain a declaration of the
22 candidate's place of residence ~~and the fact that the candidate has not been enrolled in a~~
23 ~~party qualified to participate in a primary or general election after March 1st of that~~
24 ~~election year~~ and that the candidate meets the qualifications of the office the candidate
25 seeks. The candidate must verify by oath or affirmation before a notary public or other
26 person authorized by law to administer oaths or affirmations that the declaration is true.
27 If, pursuant to the challenge procedures in section 356, any part of the declaration is
28 found to be false by the Secretary of State, the consent and the nomination petition are
29 void.

30 ~~A. Candidates for the office of county charter commission need not verify by oath~~
31 ~~or affirmation that they are not enrolled in a party.~~

32 **Sec. 17. 21-A MRSA §365, sub-§5** is enacted to read:

33 **5. For a minor party.** A minor party's state committee makes choices for all offices
34 in which a vacancy has been declared.

35 **Sec. 18. 21-A MRSA §601, sub-§2, ¶B,** as amended by PL 2001, c. 310, §29, is
36 further amended to read:

37 B. The ballot must contain the name, without any title, and place of residence of
38 each candidate, arranged alphabetically with the last name first, under the proper

1 office designation. The initial letters of the last names of the candidates must be
2 printed directly beneath each other in a vertical line. The names of candidates for any
3 one office may not be split into more than one column regardless of number. ~~The~~ For
4 the primary election, the name of each candidate may be printed on the ballot in only
5 one space. For the general election ballot, ~~the party or political designation of each~~
6 candidate must be printed with each candidate's the name of a candidate nominated
7 by more than one party must be printed once for each party. The party or political
8 designation may be abbreviated.

9 **Sec. 19. 21-A MRSA §696, sub-§4,** as amended by PL 2005, c. 404, §5, is
10 further amended to read:

11 **4. Determination of choice possible.** If a voter marks the voter's ballot in a manner
12 that differs from the instructions at the top of the ballot but in such a manner that it is
13 possible to determine the voter's choice, then the vote for the office or question concerned
14 must be counted. If a voter marks the same name for the same office multiple times with
15 different party labels, the voter's vote must be counted as if the voter cast one vote for the
16 candidate selected on a ballot space without a party label.

17 SUMMARY

18 This bill authorizes cross-endorsement, which is the practice of multiple parties or
19 political designations nominating the same candidate. It eliminates the current rules
20 requiring enrollment in a political party in order to be a candidate for that party's
21 nomination. It also requires the Secretary of State to list on the ballot a candidate
22 nominated by multiple parties or political designations once for each party or political
23 designation. The bill also prevents overvotes, which is when a voter marks the same
24 candidate's name multiple times, from invalidating the vote.

25 This bill also authorizes the formation of official minor political parties and
26 establishes the requirement for formation, continuation and ballot access.