

# MAINE STATE LEGISLATURE

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Date: 5/18/19

LEGAL AND VETERANS AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 808, L.D. 1169, Bill, "An Act To Amend the Election Laws"

Amend the bill by inserting before section 1 the following:

'Sec. 1. 21-A MRSA §1, sub-§11-A is enacted to read:

11-A. Declared write-in candidate. "Declared write-in candidate" means a write-in candidate who has filed a declaration to be a write-in candidate pursuant to section 722-A.'

Amend the bill by inserting after section 3 the following:

'Sec. 4. 21-A MRSA §1, sub-§45-A is enacted to read:

45-A. Undeclared write-in candidate. "Undeclared write-in candidate" means a write-in candidate who has not filed a declaration pursuant to section 722-A.

Sec. 5. 21-A MRSA §1, sub-§51, as amended by PL 1999, c. 426, §1, is further amended to read:

51. Write-in candidate. "Write-in candidate" means a person whose name does not appear on the ballot under the office designation to which a voter may wish to elect the candidate and who has filed a declaration to be a write-in candidate pursuant to section 722-A.'

Amend the bill in section 4 in subsection 3-A in the last line (page 1, line 18 in L.D.) by striking out the following: "2" and inserting the following: '6'

Amend the bill by inserting after section 4 the following:

'Sec. 5. 21-A MRSA §101, sub-§1, as amended by PL 2007, c. 455, §2, is further amended to read:

1. Qualifications. The registrar must be a citizen of the United States, a resident of the State and at least 18 years of age. The registrar may not hold, or be a candidate or treasurer for a candidate for, any state, local or county office, or be a municipal officer as

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1 defined by Title 30-A, section 2001 in the electoral division in which the registrar is  
2 appointed or be an officer of a municipal, county or state party committee. The registrar  
3 may not be an employee of a party or candidate.'

4 Amend the bill in section 9 in §154 in subsection 1 by striking out the underlined  
5 sentence (page 3, lines 14 to 16 in L.D.) and inserting the following: 'If a citizen of the  
6 United States who resides outside the United States and has never lived in the United  
7 States has a parent who is a qualified elector, that person is eligible to register and vote  
8 where that parent is a qualified elector.'

9 Amend the bill by inserting after section 13 the following:

10 'Sec. 14. 21-A MRSA §335, sub-§9, as enacted by PL 1985, c. 161, §6, is  
11 repealed and the following enacted in its place:

12 9. Petition validity. For a candidate to qualify for the ballot, a nomination petition  
13 must meet all of the requirements of this section. If the circulator swears an oath or  
14 affirmation in accordance with subsection 7, paragraph A that the circulator reasonably  
15 believes to be true and accurate at the time the oath or affirmation is sworn and there is no  
16 proof of fraud or a knowingly false statement by the circulator, then the voters' signatures  
17 that do not meet the requirements of subsection 7, paragraph A may not be counted, but  
18 the petition is otherwise valid.'

19 Amend the bill by inserting after section 15 the following:

20 'Sec. 16. 21-A MRSA §354, sub-§9, as enacted by PL 1985, c. 161, §6, is  
21 repealed and the following enacted in its place:

22 9. Petition validity. For a candidate to qualify for the ballot, a nomination petition  
23 must meet all of the requirements of this section. If the circulator swears an oath or  
24 affirmation in accordance with subsection 7, paragraph A that the circulator reasonably  
25 believes to be true and accurate at the time the oath or affirmation is sworn and there is no  
26 proof of fraud or a knowingly false statement by the circulator, then the voters' signatures  
27 that do not meet the requirements of subsection 7, paragraph A may not be counted, but  
28 the petition is otherwise valid.'

29 Amend the bill by striking out all of section 17 and inserting the following:

30 'Sec. 17. 21-A MRSA §601, sub-§2, ¶B, as amended by PL 2007, c. 455, §18, is  
31 further amended to read:

32 B. The ballot must contain the legal name of each candidate, without any title, and  
33 place of residence of each candidate, arranged alphabetically with the last name first,  
34 under the proper office designation. Municipality of residence is not required to be  
35 printed for candidates for President and Vice President of the United States. The  
36 initial letters of the last names of the candidates must be printed directly beneath each  
37 other in a vertical line. The names of candidates for any one office may not be split  
38 into more than one column regardless of number. The name of each candidate may  
39 be printed on the ballot in only one space. For the general election ballot, the party or  
40 political designation of each candidate must be printed with each candidate's name.  
41 The party or political designation may be abbreviated.'

42 Amend the bill by inserting after section 20 the following:

1        **'Sec. 21. 21-A MRSA §682, sub-§3, ¶A,** as repealed and replaced by PL 2003, c.  
2        447, §22, is amended to read:

3            A. This subsection does not apply to advertising material on automobiles traveling to  
4            and from the voting place for the purposes of voting. ~~It does not prohibit a person~~  
5            ~~from passing out stickers at the voting place to be pasted on the ballot at a primary~~  
6            ~~election.~~ It does not prohibit a person who is at the polls solely for the purpose of  
7            voting from wearing a campaign button when the longest dimension of the button  
8            does not exceed 3 inches.'

9            Amend the bill in section 22 in subsection 2 in the 6th line (page 7, line 11 in L.D.)  
10          by striking out the following: "declared" and inserting the following: 'declared'

11          Amend the bill in section 23 in subsection 2 in the 2nd line (page 7, line 19 in L.D.)  
12          by striking out the following: "declared"

13          Amend the bill in section 25 in subsection 2 in paragraph E in the last line (page 8,  
14          line 18 in L.D.) by inserting after the following: "counted" the following: 'except in  
15          accordance with section 737-A, subsection 2-A'

16          Amend the bill by inserting after section 26 the following:

17          **'Sec. 27. 21-A MRSA §711, first ¶,** as amended by PL 2001, c. 516, §12, is  
18          further amended to read:

19            As soon as the results of the election have been declared, the election return must be  
20            prepared. The warden at each ward or precinct shall fill out the election return form  
21            provided by the Secretary of State, showing the number of votes cast for each candidate  
22            or question and recording the total number of state ballots cast in that ward or precinct.  
23            The warden and one other election official shall sign the return and immediately deliver it  
24            to the municipal clerk. The form provided by the Secretary of State must include the  
25            names of all candidates, including declared write-in candidates as determined by section  
26            722-A.'

27          Amend the bill by inserting after section 27 the following:

28          **'Sec. 28. 21-A MRSA §722,** as amended by PL 2001, c. 516, §13, is further  
29          amended to read:

30        **§722. Secretary of State to tabulate and print results**

31            Within 20 days after an election, the Secretary of State shall tabulate the election  
32            returns and submit the tabulation to the Governor.

33            **1. How tabulated.** The Secretary of State shall tabulate all votes that appear by an  
34            election return to have been cast for each question or candidate whose name appeared on  
35            the ballot. ~~All write-in candidates, as defined in section 1, subsection 51, receiving less~~  
36            ~~than 5% of the votes cast for that office must be titled "others" when the tabulation is~~  
37            ~~processed.~~ The Secretary of State shall tabulate the votes that appear by an election  
38            return to have been cast for a declared write-in candidate and shall tabulate the votes that  
39            appear to have been cast for an undeclared write-in candidate based on a recount  
40            requested and conducted pursuant to section 737-A, subsection 2-A.

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1 1-A. Form of tabulation. The tabulation must include the total votes for each  
2 question choice or candidate whose name appeared on the ballot. The tabulation also  
3 must include the total votes for any write-in candidates who qualified to have their votes  
4 tabulated under subsection 1 as follows.

5 A. For a write-in candidate who receives 5% or more of the votes cast for that office,  
6 the Secretary of State shall report the votes under the candidate's name.

7 B. For a write-in candidate who receives less than 5% of the votes cast for that  
8 office, the Secretary of State shall report the votes under the designation "others."

9 2. **Correction of return.** If it appears that an election return does not agree with the  
10 record of the vote at any voting place, the Secretary of State shall correct the tabulation  
11 by obtaining a certified copy of the record from the clerk.

12 3. **Tabulation printed.** The Secretary of State shall have copies of the tabulation  
13 printed and made available to the public.

14 **Sec. 29. 21-A MRSA §722-A,** as amended by PL 2007, c. 455, §40, is further  
15 amended to read:

16 **§722-A. Determination of declared write-in candidate**

17 To be considered a valid declared write-in candidate, a person must file a declaration  
18 of write-in candidacy with the Secretary of State, on a form approved by the Secretary of  
19 State, on or before 5 p.m. on the ~~3rd~~ business 45th day prior to the election. The  
20 candidate must meet all the other qualifications for that office.

21 **Sec. 30. 21-A MRSA §723, sub-§1,** as amended by PL 2001, c. 516, §14, is  
22 further amended to read:

23 1. **Primary election.** In a primary election, the person who receives a plurality of  
24 the votes cast for nomination to any office, as long as there is at least one vote cast for  
25 that office, is nominated for that office, except for write-in candidates under paragraph A  
26 ~~and section 722-A.~~

27 ~~A. A person who has not qualified as a candidate for nomination by primary election~~  
28 ~~by filing a petition and consent under sections 335 and 336, but write-in candidate~~  
29 ~~who complies with either section 722-A or section 737-A, subsection 2-A and who~~  
30 ~~fulfills the other qualifications under section 334, may be nominated at the primary~~  
31 ~~election if that person receives a number of valid write-in votes equal to at least twice~~  
32 ~~the minimum number of signatures required under section 335, subsection 5, on a~~  
33 ~~primary petition for a candidate for that office.~~

34 B. The Secretary of State shall immediately certify by mail the nomination of each  
35 person nominated by the primary election.

36 **Sec. 31. 21-A MRSA §723, sub-§2,** as amended by PL 2001, c. 516, §15, is  
37 further amended to read:

38 2. **Other elections.** In any other election, the person who receives a plurality of the  
39 votes cast for election to any office, as long as there is at least one vote cast for that  
40 office, is elected to that office, except that ~~a~~ write-in candidates candidate must also  
41 comply with either section 722-A or section 737-A, subsection 2-A.'

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Amend the bill by inserting after section 28 the following:

**Sec. 29. 21-A MRSA §737-A, first ¶**, as amended by PL 2007, c. 515, §7, is repealed.

**Sec. 30. 21-A MRSA §737-A, sub-§1**, as amended by PL 2003, c. 447, §25, is further amended to read:

**1. Deposit for recount.** All deposits required by this section must be made with the Secretary of State when a recount is requested by a losing candidate or an undeclared write-in candidate. Once the State Police have taken custody of the ballots and other election materials from the municipalities, the deposit made by the candidate requesting the recount is forfeited to the State if the resulting count fails to change the outcome of the election. If the recount reverses the election, the deposit must be returned to the candidate requesting the recount. The amount of the deposit is calculated as follows.

A. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is 2% or less of the total votes cast for that office, a deposit is not required.

B. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 2% and less than or equal to 4% of the total votes cast for that office, the deposit is \$500.

C. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 4% and less than or equal to 6% of the total votes cast for that office, the deposit is \$1,000.

D. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 6% and less than or equal to 8% of the total votes cast for that office, the deposit is \$2,500.

E. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 8% and less than or equal to 10% of the total votes cast for that office, the deposit is \$5,000.

F. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 10% of the total votes cast for that office, the deposit is \$10,000.

**Sec. 31. 21-A MRSA §737-A, sub-§2-A** is enacted to read:

**2-A. Recount for write-in candidates.** For the purposes of this section, a declared write-in candidate who has complied with the requirements of section 722-A is treated the same as any candidate whose name is printed on the ballot. An undeclared write-in candidate also may request a recount and be treated as a designated recount candidate, but only upon first submitting a written request for a recount that must contain a statement signed by the candidate that the candidate will accept the nomination. The consent must contain a declaration of the candidate's place of residence and party designation and a statement that the candidate meets the qualifications of the office the write-in candidate seeks, which the candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. The undeclared write-in candidate must submit a \$10,000 deposit. If the recount

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1 fails to reverse the outcome of the election, the undeclared candidate must also pay the  
2 actual cost of the recount, as determined by the Secretary of State.

3 **Sec. 32. 21-A MRSA §737-A, sub-§8**, as enacted by PL 1993, c. 473, §31 and  
4 affected by §46, is amended to read:

5 **8. Mistake in ballot count.** If it is found that a mistake was made in counting the  
6 ballots on election day, or if the recount results show that an undeclared write-in  
7 candidate received votes for a particular office, the Secretary of State shall submit a  
8 corrected tabulation to the Governor.'

9 Amend the bill by inserting after section 36 the following:

10 'Sec. 37. 21-A MRSA §812-A, sub-§3 is enacted to read:

11 **3. Accessible feature for casting write-in vote.** As an accommodation for persons  
12 with disabilities, the audio ballot for the accessible voting system under subsection 1 may  
13 be programmed to provide an aural presentation of the names of any declared write-in  
14 candidates at the end of the list of candidates whose names were listed on the printed  
15 ballot so that the voter may cast a vote for a declared write-in candidate in the same  
16 manner as voting for a listed candidate. If there is no declared write-in candidate for an  
17 office, the audio ballot may provide aural instructions to that effect.'

18 Amend the bill by inserting after section 37 the following:

19 'Sec. 38. 21-A MRSA §826, sub-§2, as enacted by PL 1985, c. 161, §6, is  
20 amended to read:

21 **2. Totals announced.** The warden shall announce the total for each candidate in the  
22 order shown on the ballot label, for each referendum question and for each declared  
23 write-in candidate. As each total is read, it ~~shall~~ must be recorded by an election clerk  
24 from a political party other than that of the warden.'

25 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
26 section number to read consecutively.

27 **SUMMARY**

28 This amendment adds definitions for "declared write-in candidate" and "undeclared  
29 write-in candidate." The amendment extends the period during which the Secretary of  
30 State must maintain direct initiative of legislation and people's veto petitions after the  
31 appeal period from 2 to 6 months. This amendment clarifies that the restriction on the  
32 registrar running for or holding office only applies to the electoral division in which the  
33 registrar is appointed and prohibits a candidate's treasurer from serving as a registrar in  
34 that electoral division. It removes a provision in the bill that eliminates the requirement  
35 that the municipality of residence be listed next to candidates printed on the ballot. The  
36 amendment clarifies that municipality of residence is not required to be listed for  
37 candidates for the office of President and Vice President of the United States. This  
38 amendment requires the Secretary of State to include the names of declared write-in  
39 candidates on the election return forms and requires write-in candidates to file their  
40 declarations of write-in candidacy with the Secretary of State 45 days before election day.  
41 It also removes the term "valid" when referring to write-in candidates who meet the

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1 declaration deadline. The amendment also adds language regarding candidate petition  
2 validity when signatures on those petitions do not meet the requirements prescribed but  
3 are also not proven to be fraudulent. The amendment also facilitates the use of the  
4 accessible voting system by persons with disabilities to cast a vote for a declared write-in  
5 candidate.

**FISCAL NOTE REQUIRED**

**(See attached)**





Approved: 04/23/09 *mac*

# 124th MAINE LEGISLATURE

LD 1169

LR 555(02)

An Act To Amend the Election Laws

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

Committee: Legal and Veterans Affairs

Fiscal Note Required: Yes

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

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