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# **126th MAINE LEGISLATURE**

## **FIRST REGULAR SESSION-2013**

**Legislative Document** 

No. 856

H.P. 607

House of Representatives, March 6, 2013

**RESOLUTION, Proposing an Amendment to the Constitution of** Maine To Require State Officers To Be Elected by a Majority of Voters

Reference to the Committee on State and Local Government suggested and ordered printed.

Millicent M. Mac Jarland

MILLICENT M. MacFARLAND Clerk

Presented by Representative BROOKS of Winterport. Cosponsored by Senator TUTTLE of York and Representatives: CHIPMAN of Portland, EVANGELOS of Friendship, FARNSWORTH of Portland, LIBBY of Lewiston, RUSSELL of Portland, VEROW of Brewer, Senator: HASKELL of Cumberland. 1 **Constitutional amendment. Resolved:** Two thirds of each branch of the 2 Legislature concurring, that the following amendment to the Constitution of Maine be 3 proposed:

4

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

5 Section 5. Election of Representatives; lists of votes delivered forthwith; 6 lists of votes examined by Governor; summons of persons who appear to be elected; lists shall be laid before the House. The meetings within this State for the 7 8 choice of Representatives shall be warned in due course of law by qualified officials of the several towns and cities 7 days at least before the election, and the election officials of 9 the various towns and cities shall preside impartially at such meetings, receive the votes 10 of all the qualified electors, sort, count and declare them in open meeting; and a list of the 11 persons voted for shall be formed, with the number of votes for each person against that 12 13 person's name. Cities and towns belonging to any Representative District shall hold their meetings at the same time in the respective cities and towns; and such meetings shall be 14 15 notified, held and regulated, the votes received, sorted, counted and declared in the same 16 manner. Fair copies of the lists of votes shall be attested by the municipal officers and 17 the clerks of the cities and towns and the city and town clerks respectively shall cause the 18 same to be delivered into the office of the Secretary of State forthwith. If no person 19 received more than 50% of the votes duly cast for the office of Representative in a district, the House of Representatives shall order a run-off election, to be held within 2 20 21 weeks of the date of the order, between the 2 persons who received the largest number of 22 votes duly cast for the office of Representative in that district. The person who receives 23 the larger number of votes in the run-off election is declared the Representative for that district. The Governor shall examine the returned copies of such lists and 7 days before 24 25 the first Wednesday of December biennially, shall issue a summons to such persons as shall appear to have been elected by a plurality more than 50% of all votes returned, to 26 27 attend and take their seats. All such lists shall be laid before the House of Representatives on the first Wednesday of December biennially, and they shall finally 28 29 determine who are elected.

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#### Constitution, Art. IV, Pt. Second, §3 is amended to read:

31 Section 3. Election of Senators; lists of votes delivered forthwith. The meetings within this State for the election of Senators shall be notified, held and regulated 32 and the votes received, sorted, counted, declared and recorded, in the same manner as 33 34 those for Representatives. Fair copies of the lists of votes shall be attested by the clerks 35 of the cities and towns or other duly authorized officials and sealed up in open meetings and such officials shall cause said lists to be delivered into the office of the Secretary of 36 37 State forthwith. If no person received more than 50% of the votes duly cast for the office 38 of Senator in a district, the Senate shall order a run-off election, to be held within 2 weeks 39 of the date of the order, between the 2 persons who received the largest number of votes 40 duly cast for the office of Senator in that district. The person who receives the larger 41 number of votes in the run-off election is declared the Senator for that district.

42 **Constitution, Art. IV, Pt. Second, §4** is amended to read:

1 Section 4. Lists of votes examined by Governor; summons to persons who 2 appear to be elected. The Governor shall, as soon as may be, examine the copies of 3 such lists, and at least 7 days before the said first Wednesday of December, issue a 4 summons to such persons, as shall appear to be elected by <u>a plurality more than 50%</u> of 5 the votes in each senatorial district, to attend that day and take their seats.

6

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

7 Section 5. Determination of Senators elected; procedure for filling 8 The Senate shall, on said first Wednesday of December, biennially vacancies. 9 determine who is elected by a plurality more than 50% of the votes to be Senator in each district. All vacancies in the Senate arising from death, resignation, removal from the 10 State or like causes, and also vacancies, if any, which may occur because of the failure of 11 any district to elect by a plurality more than 50% of the votes the Senator to which said 12 district shall be entitled shall be filled by an immediate election in the unrepresented 13 district. The Governor shall issue a proclamation therefor and therein fix the time of such 14 15 election.

#### 16 **Constitution, Art. V, Pt. First, §3** is amended to read:

17 Section 3. Election; votes to be returned to Secretary of State; Secretary of State to lay lists before the Senate and House of Representatives; provision 18 19 in case of tie. The meetings for election of Governor shall be notified, held and regulated and votes shall be received, sorted, counted and declared and recorded, in the 20 21 same manner as those for Senators and Representatives. Copies of lists of votes shall be 22 sealed and returned to the secretary's office in the same manner and at the same time as The Secretary of State for the time being shall, on the first 23 those for Senators. 24 Wednesday after the first Tuesday of January then next, lay the lists returned to the secretary's office before the Senate and House of Representatives to be by them 25 examined, together with the ballots cast if they so elect, and they shall determine the 26 27 number of votes duly cast for the office of Governor, and in case of a choice by plurality 28 of all of the votes returned they shall declare and publish the same. If no person received 29 more than 50% of the votes duly cast for the office of Governor, the Senate and House of Representatives meeting in joint session shall order a run-off election, to be held within 2 30 weeks of the date of the order, between the 2 persons who received the largest number of 31 32 votes duly cast for the office of Governor. The person who receives the larger number of votes in the run-off election is declared the Governor. If there shall be a tie between the 2 33 persons having the largest number of votes for Governor in the run-off election, the 34 House of Representatives and the Senate meeting in joint session, and each member of 35 said bodies having a single vote, shall elect one of said 2 persons having so received an 36 37 equal number of votes and the person so elected by the Senate and House of Representatives shall be declared the Governor. 38

39

; and be it further

40 **Constitutional referendum procedure; form of question; effective date.** 41 **Resolved:** That the municipal officers of this State shall notify the inhabitants of their 42 respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election held in the month of November
following the passage of this resolution, to vote upon the ratification of the amendment
proposed in this resolution by voting upon the following question:

4 "Do you favor amending the Constitution of Maine to require a run-off
5 election between the 2 candidates for the office of Governor, State
6 Senator or State Representative who received the most votes in an
7 election in which no candidate received more than 50% of the votes?"

8 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 9 square below the word "Yes" or "No." The ballots must be received, sorted, counted and 10 declared in open ward, town and plantation meetings and returns made to the Secretary of 11 State in the same manner as votes for members of the Legislature. The Governor shall 12 review the returns. If it appears that a majority of the legal votes are cast in favor of the 13 amendment, the Governor shall proclaim that fact without delay and the amendment 14 becomes part of the Constitution of Maine on the date of the proclamation; and be it 15 16 further

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

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#### SUMMARY

21 This resolution proposes to amend the Constitution of Maine to require that a 22 candidate for the office of Governor, State Senator or State Representative receive more than 50% of the votes cast to be elected. Currently, the candidate who receives the 23 largest number of votes, regardless of that number's percentage of the total number of 24 votes cast, is elected. This resolution requires a run-off election between the 2 persons 25 26 who received the largest number of votes when no candidate received more than 50% of the total number of votes cast. The person who receives the larger number of votes in the 27 28 run-off election is declared the winner.