

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 860

H.P. 611

House of Representatives, March 5, 2013

**An Act To Require That the Governor, Senators and Members of
the House of Representatives Be Elected by the Ranked-choice
Voting Method**

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RUSSELL of Portland.
Cosponsored by Senator SAVIELLO of Franklin and
Representatives: BEAVERS of South Berwick, BECK of Waterville, BOLAND of Sanford,
BRIGGS of Mexico, BROOKS of Winterport, CASAVANT of Biddeford, CASSIDY of
Lubec, CHAPMAN of Brooksville, CHENETTE of Saco, CHIPMAN of Portland, COOPER
of Yarmouth, DAUGHTRY of Brunswick, DICKERSON of Rockland, DORNEY of
Norridgewock, FARNSWORTH of Portland, GATTINE of Westbrook, GIDEON of Freeport,
GILBERT of Jay, GOODE of Bangor, GRAHAM of North Yarmouth, GRANT of Gardiner,
HAMANN of South Portland, HUBBELL of Bar Harbor, KAENRATH of South Portland,
KUSIAK of Fairfield, LAJOIE of Lewiston, LONGSTAFF of Waterville, MacDONALD of
Boothbay, MASTRACCIO of Sanford, McLEAN of Gorham, MITCHELL of the Penobscot
Nation, MONAGHAN-DERRIG of Cape Elizabeth, MOONEN of Portland, MORRISON of
South Portland, NOON of Sanford, RANKIN of Hiram, RYKERSON of Kittery, SAUCIER of
Presque Isle, SCHNECK of Bangor, SOCTOMAH of the Passamaquoddy Tribe, STUCKEY of
Portland, TIPPING-SPITZ of Orono, VEROW of Brewer, VILLA of Harrison, WELSH of
Rockport, Senators: HASKELL of Cumberland, JOHNSON of Lincoln, PATRICK of Oxford,
VALENTINO of York, WOODBURY of Cumberland.

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

2 **Sec. 1. 21-A MRSA §1, sub-§27-C** is enacted to read:

3 **27-C. Offices subject to the ranked-choice voting method.** "Offices subject to the
4 ranked-choice voting method" means the offices of Governor, Senator and Member of the
5 House of Representatives.

6 **Sec. 2. 21-A MRSA §1, sub-§35-A** is enacted to read:

7 **35-A. Ranked-choice voting method.** "Ranked-choice voting method" means a
8 method of casting and tabulating votes in which voters rank the candidates for office in
9 order of their preferences. There are 3 rounds of counting. The candidate with the greatest
10 number of votes in the final round is elected.

11 **Sec. 3. 21-A MRSA §601, sub-§2, ¶J** is enacted to read:

12 J. For offices subject to the ranked-choice voting method, the ballot must be simple
13 and easy to understand and allow a voter to rank candidates in order of choice. A
14 voter may include no more than one write-in candidate among that voter's ranked
15 choices for each office. If feasible, ballots must be designed so that a voter may mark
16 that voter's first choice in the same manner as that for offices not elected by the
17 ranked-choice voting method.

18 Instructions on the ballot must conform substantially to the following specifications,
19 subject to usability testing and modification based on ballot design and voting
20 machine:

21 "Vote for candidates by indicating your first-choice candidate and ranking additional
22 candidates in order of preference. Indicate your first choice by marking the number
23 "1" beside a candidate's name, your 2nd choice by marking the number "2" beside a
24 candidate's name, your 3rd choice by marking the number "3" beside a candidate's
25 name and so on. You may choose to rank only one candidate, but ranking another
26 candidate as a lower choice will not hurt your first choice. You may rank the
27 candidate more than once, but the additional ranking does not help that candidate. Do
28 not mark the same number beside more than one candidate. Do not skip numbers."

29 **Sec. 4. 21-A MRSA §603, sub-§1, ¶C** is enacted to read:

30 C. The ballot must illustrate the voting procedure for the ranked-choice voting
31 method for Governor.

32 **Sec. 5. 21-A MRSA §603, sub-§7** is enacted to read:

33 **7. Include with absentee ballot.** A clerk shall provide a sample ballot with each
34 absentee ballot.

35 **Sec. 6. 21-A MRSA §625**, as amended by PL 2009, c. 538, §7, is further amended
36 by adding at the end a new paragraph to read:

37 The clerk shall post a sample ballot in or near each voting booth on election day.

1 **Sec. 7. 21-A MRSA §722, sub-§1**, as amended by PL 2009, c. 253, §36, is
2 further amended to read:

3 **1. How tabulated.** The Secretary of State shall tabulate all votes that appear by an
4 election return to have been cast for each question or candidate whose name appeared on
5 the ballot. For offices subject to the ranked-choice voting method, the Secretary of State
6 shall tabulate the votes according to the ranked-choice voting method described in section
7 726. The Secretary of State shall tabulate the votes that appear by an election return to
8 have been cast for a declared write-in candidate and shall tabulate the votes that appear to
9 have been cast for an undeclared write-in candidate based on a recount requested and
10 conducted pursuant to section 737-A, subsection 2-A.

11 **Sec. 8. 21-A MRSA §723, sub-§2**, as amended by PL 2009, c. 253, §39, is
12 further amended to read:

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

17 A. Write-in candidates must also comply with section 722-A or section 737-A,
18 subsection 2-A; and

19 B. For offices subject to the ranked-choice voting method, the person who is
20 determined to be the winner under the ranked-choice voting method described in
21 section 726 is elected to that office.

22 **Sec. 9. 21-A MRSA §726** is enacted to read:

23 **§726. Ranked-choice voting method**

24 **1. Procedures.** The following procedures are used to determine the winner in an
25 election for an office subject to the ranked-choice voting method.

26 A. The first choice marked on each ballot must be counted initially by the election
27 officials.

28 B. In every round of counting, each ballot is counted as one vote for that ballot's
29 highest-ranked advancing candidate. "Advancing candidate" means a candidate for an
30 office who has not been eliminated. If more than 3 candidates have received votes
31 after the initial round of counting, the Secretary of State shall eliminate all candidates
32 except the 3 candidates with the most votes. If only 2 candidates have received votes,
33 the Secretary of State shall eliminate the candidate with the fewest votes. The
34 Secretary of State shall conduct a 2nd round of counting. A ballot that ranks an
35 eliminated candidate as the highest-ranked candidate must be counted as a vote for
36 the highest-ranked advancing candidate on that ballot. If 3 candidates remain in the
37 2nd round, the candidate with the fewest votes is eliminated. The candidate with the
38 most votes then must be declared the winner.

39 C. If a ballot has no more available choices ranked on it, that ballot must be declared
40 exhausted. A ballot that skips one number must be counted for that voter's next

1 clearly indicated choice, but a ballot that skips more than one number must be
2 declared exhausted when this skipping of numbers is reached. A ballot with the same
3 number for 2 or more candidates must be declared exhausted when these duplicated
4 numbers are reached.

5 D. For ties between candidates occurring at any round of counting in the tabulation,
6 determinations must be made based on whomever was credited with the most votes at
7 the previous round. In the case of any tie to which a previous round does not apply,
8 the tie must be resolved in accordance with the general election laws of the State.

9 **2. Change of voting method.** The legislative body of a municipality or election
10 officials may provide for the use of mechanical, electronic or other devices for marking,
11 sorting and counting ballots and tabulating results and may modify the form of the
12 ballots, the directions to voters and the details with respect to the method of marking,
13 sorting, counting, invalidating and retaining ballots and the tabulating and recounting of
14 votes, as long as no change is made that is contrary to the intent or principles embodied in
15 this section.

16 **3. Modification of ranked-choice voting method ballot and count.** Modification
17 of a ranked-choice voting method ballot and count is permitted in accordance with this
18 subsection.

19 A. If the Secretary of State determines that the number of candidates for an office
20 subject to the ranked-choice voting method exceeds the practical space requirements
21 for ranking all candidates on the ballot, the number of allowable rankings may be
22 limited to no fewer than 5 candidates.

23 B. Two or more candidates may be eliminated simultaneously if the number of total
24 votes credited for those candidates is fewer than the number of total votes credited for
25 the candidate with the next greatest number of votes.

26 **4. Effect on rights of political parties.** For all statutory and constitutional
27 provisions in the State pertaining to the rights of political parties, the number of votes cast
28 for a party's candidate for an office subject to the ranked-choice voting method is the
29 number of votes credited to that candidate after the initial round of counting.

30 **Sec. 10. 21-A MRSA §753-B, sub-§1,** as amended by PL 2011, c. 399, §22, is
31 further amended to read:

32 **1. Application or written request received.** Upon receipt of an application or
33 written request for an absentee ballot that is accepted pursuant to section 753-A, the clerk
34 shall immediately issue a sample ballot, pursuant to section 603, subsection 7, an
35 absentee ballot and return envelope by mail or in person to the applicant or to the
36 immediate family member or to a 3rd person designated in a written application or
37 request made by the voter, except as provided in subsection 2. The clerk shall type or
38 write in ink the name and the residence address of the voter in the designated section of
39 the return envelope.

40 **Sec. 11. Statutory referendum procedure; submission at election; form of**
41 **question; effective date.** This Act must be submitted to the legal voters of the State at

1 a statewide election held in the month of November following passage of this Act. The
2 municipal officers of this State shall notify the inhabitants of their respective cities, towns
3 and plantations to meet, in the manner prescribed by law for holding a statewide election,
4 to vote on the acceptance or rejection of this Act by voting on the following question:

5 "Do you favor electing the Governor, Senators and Members of the
6 House of Representatives by the ranked-choice voting method?"

7 The legal voters of each city, town and plantation shall vote by ballot on this question
8 and designate their choice by a cross or check mark placed within a corresponding square
9 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 a majority of the legal votes are cast in favor of this Act, the
13 Governor shall proclaim the result without delay and this Act becomes effective 30 days
14 after the date of the proclamation.

15 The Secretary of State shall prepare and furnish to each city, town and plantation all
16 ballots, returns and copies of this Act necessary to carry out the purposes of this
17 referendum.

18 SUMMARY

19 This bill creates the ranked-choice voting method of determining winners in elections
20 for Governor, Senators and Members of the House of Representatives. The method
21 simulates the ballot counts that would occur if all voters participated in a series of run-off
22 elections and allows a voter to rank candidates according to that voter's preferences. Each
23 voter has only one vote and the ballot count is the same as would occur if voters
24 participated in a series of run-off elections, with the candidate with the fewest votes
25 eliminated after each round of counting.

26 There is an initial round of counting. If more than 2 candidates have received votes
27 after the initial round, the Secretary of State conducts a second round. In this second
28 round, the Secretary of State eliminates the candidate with the fewest votes. A ballot that
29 ranks this eliminated candidate as the highest-ranked candidate is counted as a vote for
30 the highest-ranked advancing candidate on that ballot. An advancing candidate is a
31 candidate who has not been eliminated. This process of counting votes and eliminating
32 the candidate with the fewest votes continues until 2 candidates remain. The candidate
33 with the most votes is declared the winner.

34 The bill requires that the question of electing the Governor, Senators and Members of
35 the House of Representatives in this manner go to a statewide referendum to have the
36 citizens of the State vote on the matter.