

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1422

H.P. 1010

House of Representatives, April 16, 2013

**An Act To Establish a Nonpartisan Primary and a Presidential  
Primary Election System and Instant Run-off Voting for State and  
Federal Candidates**

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative RYKERSON of Kittery.  
Cosponsored by Representative BEAVERS of South Berwick, Senator WOODBURY of  
Cumberland and Representatives: BROOKS of Winterport, CASSIDY of Lubec, CHAPMAN  
of Brooksville, CHENETTE of Saco, EVANGELOS of Friendship, FARNSWORTH of  
Portland, MCGOWAN of York, SCHNECK of Bangor.

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

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

3 **21-A. Instant run-off voting method.** "Instant run-off voting method" means a  
4 method of casting and tabulating votes that simulates the ballot counts that would occur if  
5 all voters participated in a series of run-off elections and that allows voters to rank  
6 candidates according to their preferences, as described in section 726.

7 **Sec. 2. 21-A MRSA §111, sub-§5,** as amended by PL 2005, c. 387, §1, is further  
8 amended to read:

9 **5. Enrollment.** The person must be enrolled in a party in that municipality to vote at  
10 that party's caucus, ~~or convention or primary election, unless otherwise permitted by the~~  
11 ~~party pursuant to section 340.~~

12 **Sec. 3. 21-A MRSA §144, sub-§2,** as amended by PL 2005, c. 453, §27, is  
13 further amended to read:

14 **2. Party designation removed.** On receipt of the application, the registrar shall  
15 remove the party designation of the applicant from the central voter registration system.  
16 The registrar shall indicate in the central voter registration system that the applicant is  
17 ineligible to vote at a caucus ~~or primary election~~ for 15 days by designating the party  
18 enrollment field with the letter "X." Fifteen days after receiving the application, the  
19 registrar shall enroll the applicant in the party requested and enter the new party  
20 designation in the party enrollment field.

21 This subsection does not apply in the case of a voter who changes enrollment under  
22 subsection 4.

23 **Sec. 4. 21-A MRSA §144, sub-§3,** as amended by PL 1995, c. 459, §16, is  
24 further amended to read:

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

30 **Sec. 5. 21-A MRSA §334,** as amended by PL 2009, c. 253, §16, is further  
31 amended to read:

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

33 A candidate for nomination by primary election must file a primary petition and  
34 consent under sections 335 and 336. The candidate must be enrolled, on or before March  
35 15th, in the party named in the petition ~~and must be eligible to file a petition as a~~  
36 ~~candidate for nomination by primary election under section 144, subsection 3.~~ The  
37 registrar in the candidate's municipality of residence must certify to that fact on a form  
38 designed by the Secretary of State.



1 election on the first Tuesday after the presidential primary election in New  
2 Hampshire, unless that primary occurs in the preceding calendar year, in which case  
3 the election must be held on the first Tuesday in March.

4 **§432. Party certification**

5 The state committee of a party shall file the certification described in section 431,  
6 subsection 1 with the Secretary of State by December 1st of the year prior to the  
7 presidential election year. This certification must contain the following:

8 **1. Statement of contest.** A statement that there is a contest among candidates for  
9 nomination as the presidential candidate of the party;

10 **2. Identification of contestants.** Identification of at least 2 candidates who have  
11 declared as contestants for nomination as the presidential candidate of the party; and

12 **3. Statement of committee vote.** A statement that the state committee has voted to  
13 conduct a presidential primary election.

14 **§433. Petitions**

15 On or before July 1st of the year prior to a presidential election year, the Secretary of  
16 State shall prepare and make available petitions for circulation by a person desiring to be  
17 a contestant in the Maine presidential primary election of any party. This petition must  
18 be completed and filed at least 45 days before the primary election in the manner  
19 provided in sections 335 and 336.

20 **§434. Ballot preparation; candidate eligibility**

21 The Secretary of State shall prepare ballots for a presidential primary election under  
22 this subchapter in accordance with section 601-B.

23 **1. Petitions.** A ballot must include the name of a person who files with the Secretary  
24 of State a petition in accordance with section 433. The Secretary of State shall determine  
25 if a petition meets the requirements of sections 335, 336 and 433, subject to challenge and  
26 appeal under section 337.

27 **2. Secretary of State determination.** The following provisions govern the  
28 Secretary of State's selection of presidential candidates to appear on the ballot.

29 A. A ballot must include the name of a person who is a member of a party that has  
30 qualified under subchapter 1 and who has been determined by the Secretary of State,  
31 in the Secretary of State's sole discretion, to be generally advocated or recognized as  
32 a presidential candidate of nationwide stature in the national news media throughout  
33 the United States. This subsection may not be construed to include so-called favorite  
34 son candidates whose candidacy may be limited to one state.

35 B. The Secretary of State shall determine which candidates will be placed on the  
36 ballot under this subsection at least 30 days before the ballots are prepared. The  
37 Secretary of State shall promptly notify a person that the person's name will appear

1           on the ballot and advise that person of the steps under paragraph C that the person  
2           must take if the person does not wish to appear on the ballot.

3           C. A person who the Secretary of State determines should be placed on the ballot  
4           under this subsection may have the person's name withdrawn from the ballot by filing  
5           an affidavit with the Secretary of State in which the person swears an oath that the  
6           person requests that the person's name be withdrawn from the ballot.

7           In order for the person's name to be withdrawn from the ballot, the affidavit must be  
8           received by the Secretary of State at least 45 days before the date designated for the  
9           presidential primary election.

10        **§435. Selection of delegates**

11           If a party chooses to participate in a presidential primary election under this  
12           subchapter, delegates to national presidential nominating conventions may be selected by  
13           the party meeting in convention under subchapter 1, article 3 at any time after the  
14           presidential primary election.

15           Selection of delegates must be in accordance with any reasonable procedures  
16           established at the state party convention. In the absence of any procedures established by  
17           state or national party rules, the allocation of delegates must be as follows.

18           **1. Proportional allocation.** Delegates to the national convention must be allocated  
19           in proportion with the candidate votes and the uncommitted votes cast in the presidential  
20           primary election of the party.

21           A. A candidate receiving 10% or more of the total vote, including candidate votes  
22           and uncommitted votes, is allocated a share of delegates that approaches, as closely  
23           as possible, the candidate's respective share of the total vote.

24           B. The percentages of votes attributable to candidates receiving less than 10% of the  
25           total vote, including candidate votes and uncommitted votes, must be added to the  
26           total percentage of uncommitted votes for the purpose of allocating delegates.

27           **2. Uncommitted delegates.** A delegate selected as an uncommitted delegate may  
28           support any presidential candidate at any time and may change support for this candidate  
29           in the delegate's sole discretion.

30           **3. Committed delegates.** A delegate selected for a particular presidential candidate  
31           according to the proportional allocation specified by this section shall vote for that  
32           candidate on the first ballot at the national presidential nominating convention, unless the  
33           state committee of the party affirmatively votes to follow another procedure or the  
34           candidate for whom a particular delegate is selected specifically withdraws, as verified by  
35           the chair of the national party, from consideration for the presidential nomination at any  
36           time before the first ballot at the national presidential nominating convention.

37        **§436. Cost borne by State**

38           Whenever a municipality complies with the provisions of this subchapter, the State  
39           shall bear the cost incurred.

1           **Sec. 11. 21-A MRSA §601-B** is enacted to read:

2           **§601-B. Presidential primary ballot**

3           The Secretary of State shall prepare presidential primary election ballots in  
4           accordance with section 434 and the following provisions.

5           **1. Arrangement.** The ballot must be arranged in a manner that is as consistent and  
6           uniform as possible throughout the State.

7           **2. Content.** The ballot must contain the items listed in this subsection.

8           A. Instructions must be printed in bold type at the top of the ballot informing the  
9           voter how to designate the voter's choice on the ballot.

10           B. The ballot must contain the name, without any title, and place of residence of each  
11           candidate, arranged alphabetically with the last name first in block capital letters,  
12           followed by the first name and middle name or initial, or followed by the first name  
13           or first initial and the middle name. The name of each candidate may be printed on  
14           the ballot in only one space.

15           C. There must be a place on the ballot for the voter to designate the voter's choice.

16           D. There must be a heading on the ballot that contains the title of the election, the  
17           name of the party, the name of the voting district or districts for which the ballot was  
18           prepared, the date of the election and a facsimile of the state seal.

19           E. At the end of the list of candidates for nomination, there must be printed the word  
20           "uncommitted" in such a way that a voter may choose this preference rather than a  
21           listed candidate.

22           F. At the end of the list of candidates for nomination and after the "uncommitted"  
23           option, there may not be any blank spaces left where a voter could write in the name  
24           or place a sticker containing the name of any person for whom the voter desires to  
25           vote.

26           G. The ballot must be simple and easy to understand and allow a voter to rank  
27           candidates in order of choice. If feasible, ballots must be designed so that a voter  
28           may mark that voter's first choice in the same manner as that for offices not elected  
29           by the instant run-off voting method.

30           **Sec. 12. 21-A MRSA §603, sub-§1, ¶C** is enacted to read:

31           C. The ballot must illustrate the voting procedure for the instant run-off voting  
32           method, if applicable.

33           **Sec. 13. 21-A MRSA §603, sub-§7** is enacted to read:

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

36           **Sec. 14. 21-A MRSA §625**, as amended by PL 2009, c. 538, §7, is further  
37           amended by adding at the end a new paragraph to read:

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

2           **Sec. 15. 21-A MRSA §673, sub-§1, ¶A**, as corrected by RR 2011, c. 2, §21, is  
3 amended to read:

4           A. A voter or an election official may challenge another voter only upon personal  
5 knowledge or a reasonably supported belief that the challenged voter is unqualified.  
6 Only the following reasons for challenges may be accepted by the warden. The  
7 challenged person:

- 8           ~~(2) Is not enrolled in the proper party, if voting in a primary election;~~  
9           (3) Is not qualified to be a registered voter because the challenged person:  
10           (a) Does not meet the age requirements as specified in section 111,  
11           subsection 2 and section 111-A;  
12           (b) Is not a citizen of the United States; or  
13           (c) Is not a resident of the municipality or appropriate electoral district  
14           within the municipality;  
15           (4) Registered to vote during the closed period or on election day and did not  
16           provide satisfactory proof of identity and residency to the registrar pursuant to  
17           section 121, subsection 1-A, except that only an election official may challenge  
18           for this reason;  
19           (5) Did not properly apply for an absentee ballot;  
20           (6) Did not properly complete the affidavit on the absentee return envelope;  
21           (7) Did not cast the ballot or complete the affidavit before the appropriate  
22           witness;  
23           (8) Communicated with someone as prohibited by section 754-A, subsection 1,  
24           paragraph B or subsection 3, paragraph B or D;  
25           (9) Did not have the ballot returned to the clerk by the time prescribed;  
26           (10) Voted using the name of another;  
27           (11) Committed any other specified violation of this Title; or  
28           (12) Voted using the wrong ballot for the appropriate electoral district ~~or~~  
29           ~~political party, if applicable.~~

30           **Sec. 16. 21-A MRSA §722, sub-§1**, as amended by PL 2009, c. 253, §36, is  
31 further amended to read:

32           **1. How tabulated.** The Secretary of State shall tabulate all votes that appear by an  
33 election return to have been cast for each question or candidate whose name appeared on  
34 the ballot. The Secretary of State shall tabulate the votes ~~that appear by an election return~~  
35 ~~to have been cast for a declared write in candidate and shall tabulate the votes that appear~~  
36 ~~to have been cast for an undeclared write in candidate based on a recount requested and~~  
37 ~~conducted pursuant to section 737 A, subsection 2-A~~ according to the instant run-off  
38 voting method described in section 726.

1           **Sec. 17. 21-A MRSA §723, sub-§2**, as amended by PL 2009, c. 253, §39, is  
2 repealed and the following enacted in its place:

3           **2. Other elections.** In any other election, the person who is determined to be the  
4 winner under the instant run-off voting method described in section 726 is elected to that  
5 office.

6           **Sec. 18. 21-A MRSA §726** is enacted to read:

7           **§726. Instant run-off voting method**

8           Elections for the offices of President of the United States, United States Senator,  
9 Representative to Congress, Governor, State Senator and State Representative must be  
10 conducted according to an instant run-off voting method as follows.

11           **1. Instructions.** Instructions on the ballot must conform substantially to the  
12 following specifications, subject to modification based on ballot design and voting  
13 machine:

14 "Vote for candidates by indicating your first-choice candidate and ranking additional  
15 candidates in order of preference. Indicate your first choice by marking the number "1"  
16 beside a candidate's name, your 2nd choice by marking the number "2" beside a  
17 candidate's name, your 3rd choice by marking the number "3" beside a candidate's name  
18 and so on, for as many choices as you wish. You may choose to rank only one candidate,  
19 but ranking additional candidates will not help defeat your first-choice candidate. Do not  
20 mark the same number beside more than one candidate. Do not skip numbers."

21           **2. Procedures.** The following procedures are used to determine the winner in an  
22 election subject to this section.

23           A. The first choice marked on each ballot must be counted initially by the election  
24 officials. The ballot count is the same as the count that would occur if voters  
25 participated in a series of run-off elections, with the candidate with the fewest votes  
26 eliminated after each round of counting.

27           B. In every round of counting, each ballot is counted as one vote for that ballot's  
28 highest-ranked advancing candidate. For the purposes of this paragraph, "advancing  
29 candidate" means a candidate who has not been eliminated. If more than 2 candidates  
30 have received votes after the initial round of counting, the Secretary of State shall  
31 conduct an instant run-off round. In this instant run-off round, the Secretary of State  
32 shall eliminate the candidate with the fewest votes. A ballot that ranks this  
33 eliminated candidate as the highest-ranked candidate must be counted as a vote for  
34 the highest-ranked advancing candidate on that ballot. This process of counting votes  
35 and eliminating the candidate with the fewest votes must continue until 2 candidates  
36 remain. The candidate with the most votes must be declared the winner.

37           C. If a ballot has no more available choices ranked on it, that ballot must be declared  
38 exhausted. A ballot that skips one number must be counted for that voter's next  
39 clearly indicated choice, but a ballot that skips more than one number must be  
40 declared exhausted when this skipping of numbers is reached. A ballot with the same

1 number for 2 or more candidates must be declared exhausted when these double  
2 numbers are reached.

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

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

15 **4. Modification of instant run-off voting method ballot and count.** Modification  
16 of an instant run-off voting method ballot and count is permitted in accordance with this  
17 subsection.

18 A. If the Secretary of State determines that the number of candidates exceeds the  
19 practical space requirements for ranking all candidates on the ballot, the number of  
20 allowable rankings may be limited to no fewer than 5 candidates.

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

24 **5. Effect on rights of political parties.** For all statutory and constitutional  
25 provisions in the State pertaining to the rights of political parties, the number of votes cast  
26 for a party's candidate is the number of votes credited to that candidate after the initial  
27 round of counting.

28 **Sec. 19. 21-A MRSA §759, sub-§2,** as amended by PL 2007, c. 455, §42, is  
29 further amended to read:

30 **2. Accepted if correct.** If the warden finds that the affidavit is properly completed,  
31 that the clerk has verified that the signature on the envelope matches the signature on the  
32 application where applicable; and that the person is registered ~~and enrolled where~~  
33 ~~necessary,~~ the warden shall then examine the incoming voting list to determine whether  
34 the voter voted in person at the election. The warden shall then announce the name of  
35 each absentee voter who has not voted at the election and remove each ballot from its  
36 envelope without destroying the envelope or unfolding the ballot. After having an  
37 election clerk from a political party different from that of the warden mark the letters  
38 "AV" beside the name of each absentee voter on the incoming voting lists and place a  
39 check mark or horizontal line in red ink on the list beside the voter's name, the warden  
40 shall accept the ballot.



1       advancing candidate is a candidate who has not been eliminated. This process of  
2       counting votes and eliminating the candidate with the fewest votes continues until 2  
3       candidates remain. The candidate with the most votes is declared the winner.

4       The bill also removes the requirement that a voter must file an application to change  
5       party enrollment prior to January 1st to be eligible to file a petition as a candidate in that  
6       election year.