

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1646

H.P. 1137

House of Representatives, August 2, 2017

**An Act To Bring Maine's Ranked-choice Voting Law into
Constitutional Compliance**

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ACKLEY of Monmouth.

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

2 **Sec. 1. 21-A MRSA §1, sub-§27-C**, as enacted by IB 2015, c. 3, §1, is repealed
3 and the following enacted in its place:

4 **27-C. Elections determined by ranked-choice voting.** "Elections determined by
5 ranked-choice voting" means:

6 A. Primary elections for the offices of United States Senator, United States
7 Representative to Congress, Governor, State Senator and State Representative;

8 B. General and special elections for the offices of United States Senator and United
9 States Representative to Congress; and

10 C. General and special elections for the offices of Governor, State Senator and State
11 Representative.

12 This paragraph takes effect only if an amendment to the Constitution of Maine,
13 Article IV, Part First, Section 5, Article IV, Part Second, Sections 4 and 5 and Article
14 V, Part First, Section 3 that authorizes the Legislature, by proper enactment, to
15 determine the method by which the Governor and members of the State Senate and
16 House of Representatives are elected is ratified.

17 **Sec. 2. 21-A MRSA §601, sub-§2, ¶J**, as enacted by IB 2015, c. 3, §3, is
18 amended to read:

19 J. For ~~offices elected~~ elections determined by ranked-choice voting, the ballot must
20 be simple and easy to understand and allow a voter to rank candidates for an office in
21 order of preference. A voter may include no more than one write-in candidate among
22 that voter's ranked choices for each office.

23 **Sec. 3. 21-A MRSA §695, first ¶**, as amended by PL 2001, c. 516, §10, is further
24 amended to read:

25 Except for elections determined by ranked-choice voting, the following provisions
26 apply to the counting of ballots. The election clerks shall count the ballots under the
27 supervision of the warden as soon as the polls are closed, except that if, in the opinion of
28 the municipal clerk the public interests will best be served, referendum ballots may be
29 counted on the day immediately following the election, as long as the count is completed
30 within 24 hours after the polls are closed. If referendum ballots are counted under this
31 exception, the municipal clerk is responsible for the security and safekeeping of the
32 ballots until the count has been completed.

33 **Sec. 4. 21-A MRSA §722, sub-§1**, as amended by PL 2017, c. 141, §2, is further
34 amended to read:

35 **1. How tabulated.** The Secretary of State shall tabulate all votes that appear by an
36 election return to have been cast for each question or candidate whose name appeared on
37 the ballot. For ~~offices elected~~ elections determined by ranked-choice voting, the
38 Secretary of State shall tabulate the votes according to the ranked-choice voting method
39 described in section 723-A. The Secretary of State shall tabulate the votes that appear by

1 an election return to have been cast for a declared write-in candidate based on a recount
2 requested and conducted pursuant to section 737-A, subsection 2-A.

3 **Sec. 5. 21-A MRSA §723, sub-§1**, as amended by PL 2017, c. 248, §5, is further
4 amended to read:

5 **1. Primary election.** In a primary election, the person who ~~receives a plurality of~~
6 ~~the votes cast~~ is determined the winner pursuant to section 723-A for nomination to any
7 office, as long as there is at least one vote cast for that office, is nominated for that office,
8 except for write-in candidates under paragraph A.

9 A. A write-in candidate who complies with section 722-A and who fulfills the other
10 qualifications under section 334 may be nominated at the primary election if that
11 person receives a number of valid write-in votes equal to at least twice the minimum
12 number of signatures required under section 335, subsection 5 on a primary petition
13 for a candidate for that office.

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

16 **Sec. 6. 21-A MRSA §723, sub-§2**, as amended by PL 2017, c. 248, §6, is further
17 amended to read:

18 **2. Other elections.** In any other election except for those determined by ranked-
19 choice voting, the person who receives a plurality of the votes cast for election to any
20 office, as long as there is at least one vote cast for that office, is elected to that office,
21 except that a write-in candidate must also comply with section 722-A.

22 **Sec. 7. 21-A MRSA §723-A, sub-§2**, as enacted by IB 2015, c. 3, §5, is amended
23 to read:

24 **2. Procedures.** Except as provided in subsections 3 and 4, the following procedures
25 are used to determine the winner ~~in~~ of an election ~~for an office elected~~ determined by
26 ranked-choice voting. Tabulation must proceed in rounds. In each round, the number of
27 votes for each continuing candidate must be counted. Each continuing ballot counts as
28 one vote for its highest-ranked continuing candidate for that round. Exhausted ballots are
29 not counted for any continuing candidate. The round then ends with one of the following
30 2 potential outcomes.

31 A. If there are 2 or fewer continuing candidates, the candidate with the most votes is
32 declared the winner of the election.

33 B. If there are more than 2 continuing candidates, the last-place candidate is defeated
34 and a new round begins.

35 **Sec. 8. 21-A MRSA §723-A, sub-§5**, as enacted by IB 2015, c. 3, §5, is amended
36 to read:

37 **5. Effect on rights of political parties.** For all statutory and constitutional
38 provisions in the State pertaining to the rights of political parties, the number of votes cast
39 for a party's candidate for an office ~~elected~~ determined by ranked-choice voting is the

1 number of votes credited to that candidate after the initial counting in the first round
2 described in subsection 2.

3 **Sec. 9. 21-A MRSA §723-A, sub-§5-A** is enacted to read:

4 **5-A. Rules.** The Secretary of State shall adopt rules for the proper and efficient
5 administration of elections determined by ranked-choice voting. At a minimum, rules
6 required under this subsection must include procedures, as determined appropriate by the
7 Secretary of State, for requesting and conducting recounts of the results as determined in
8 the rounds of tabulation described in subsection 2. Rules adopted pursuant to this
9 subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

10 **SUMMARY**

11 This bill amends the ranked-choice voting law to bring it into compliance with the
12 Constitution of Maine by applying the provisions of the law only to primary elections for
13 the offices of United States Senator, United States Representative to Congress, Governor,
14 State Senator and State Representative and general and special elections for the offices of
15 United States Senator and United States Representative to Congress. The bill does not
16 allow ranked-choice voting to be used for general and special elections for the offices of
17 Governor, State Senator and State Representative unless an amendment to the
18 Constitution of Maine, Article IV, Part First, Section 5, Article IV, Part Second, Sections
19 4 and 5 and Article V, Part First, Section 3 that authorizes the Legislature, by proper
20 enactment, to determine the method by which the Governor and members of the State
21 Senate and House of Representatives are elected is ratified.

22 The bill requires the Secretary of State to adopt routine technical rules for the
23 administration of ranked-choice voting, including the administration of recounts.

24 **FISCAL NOTE REQUIRED**

25 **(See attached)**



128th MAINE LEGISLATURE

LD 1646

LR 2379(01)

An Act To Bring Maine's Ranked-choice Voting Law into Constitutional Compliance

Fiscal Note for Original Bill
Sponsor: Rep. Ackley of Monmouth
Committee: Not Referred
Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund
Current biennium cost increase - Highway Fund

Fiscal Detail and Notes

This bill implements ranked-choice voting for primary elections and general and special elections for the offices of United States Senator and United States Representative to Congress. The Department of Secretary of State will require General Fund appropriations of \$684,790 in fiscal year 2017-18 and \$542,440 in fiscal year 2018-19 and the Department of Public Safety will require \$96,768 annually beginning in fiscal year 2017-18. It will also require Highway Fund allocations to the Department of Public Safety of \$52,106 annually beginning in fiscal year 2017-18.