

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

3/1/20

MAJORITY

Date: 2/27/20

(Filing No. S-408)

VETERANS AND LEGAL AFFAIRS

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

129TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 656, L.D. 1904, Bill, "An Act To Amend Certain Laws Governing Elections"

Amend the bill by inserting after section 2 the following:

'Sec. 3. 21-A MRSA §363, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Changes in ballot. The Secretary of State shall ~~make the necessary changes in the ballot~~ produce new ballots or amend or supplement ballots already printed in accordance with section 376 or 604.

Amend the bill by inserting after section 3 the following:

'Sec. 4. 21-A MRSA §367, as amended by PL 2015, c. 447, §10, is further amended to read:

§367. Candidate withdrawal

A candidate who wishes to withdraw from an elective race shall notify the Secretary of State in writing of the candidate's intent to withdraw. This notice must be signed by the candidate. ~~If the reason for the withdrawal is catastrophic illness, condition or injury, the procedures set forth in section 374-A, subsection 1, paragraph B must be complied with if the candidate is to be replaced.~~

Sec. 5. 21-A MRSA §371, as amended by PL 2015, c. 447, §11, is repealed and the following enacted in its place:

§371. Primary election candidates; vacancy

3. Vacancy and replacement of candidates in uncontested races. If a candidate for nomination dies or becomes disqualified prior to the primary election or withdraws 70 days or more before the primary election, the Secretary of State shall declare the vacancy pursuant to section 362-A if no other candidate from the same political party will appear on the primary election ballot for that office. A political committee may fill the vacancy pursuant to section 363. The Secretary of State shall remove the former candidate's name

COMMITTEE AMENDMENT

ROPS

1 from the primary election ballot and shall produce new primary election ballots or amend
2 or supplement the primary election ballots already printed in accordance with section 376
3 or 604.

4 **4. Removal of candidate's name from ballot in contested races.** The Secretary of
5 State shall remove the name of a candidate for nomination from the primary election
6 ballot but is not required to declare a vacancy if, 70 days or more before the primary
7 election, the candidate dies, becomes disqualified or withdraws and another candidate
8 from the same political party will appear on the ballot for that office.

9 **5. Death or disqualification of candidates less than 70 days before primary**
10 **election in contested races.** The Secretary of State is not required to remove the name of
11 a candidate from the primary election ballot or declare a vacancy if a candidate dies or
12 becomes disqualified less than 70 days before the primary election and another candidate
13 from the same political party will appear on the ballot for that office. Upon receipt of
14 information that the candidate has died or become disqualified, the Secretary of State
15 shall immediately prepare and distribute to the local election officials in the candidate's
16 electoral district a notice informing voters that the candidate has died or become
17 disqualified and that a vote for that candidate will not be counted. The notice must be
18 distributed with all absentee ballots requested after the notice is received by the local
19 election officials and, on election day, must be posted outside the guardrail enclosure in
20 accordance with section 651, subsection 2 and in each voting booth. Notice that the
21 candidate has died or become disqualified must also be posted on the Secretary of State's
22 publicly accessible website.

23 **6. Withdrawal of candidates less than 70 days before primary election in**
24 **contested and uncontested races.** When a candidate for nomination withdraws less than
25 70 days before the primary election, the candidate's name may not be removed from the
26 primary election ballot and a vacancy may not be declared. Upon receipt of the notice of
27 withdrawal, the Secretary of State shall immediately prepare and distribute to the local
28 election officials in the candidate's electoral district a notice informing voters that the
29 candidate has withdrawn and that a vote for that candidate will not be counted. The
30 notice must be distributed with all absentee ballots requested after the notice is received
31 by the local election officials and, on election day, must be posted outside the guardrail
32 enclosure in accordance with section 651, subsection 2 and in each voting booth. Notice
33 of the late withdrawal must also be posted on the Secretary of State's publicly accessible
34 website.'

35 Amend the bill by striking out all of sections 6 and 7 and inserting the following:

36 'Sec. 6. 21-A MRS §374-A, as amended by PL 2015, c. 447, §§12 and 13, is
37 further amended to read:

38 **§374-A. Withdrawal of candidates for certain state offices General election**
39 **candidates; vacancy**

40 **1. Withdrawal Vacancy and replacement of nominees.** The Secretary of State
41 shall declare the vacancy as provided in section 362-A and a political committee may
42 make a replacement nomination following a candidate's withdrawal for the general
43 election only if a person nominated for an office, other than United States Senator,

1 ~~Representative to Congress or Governor~~, at a primary election or by a political
2 committee:

3 A. Withdraws on or before 5 p.m. of the 2nd Monday in July preceding the general
4 election in accordance with section 367;

5 B. Withdraws because of a catastrophic illness, condition or injury that has
6 permanently and continuously incapacitated the candidate and would prevent
7 performance of the duties of the office sought, as long as the candidate or a member
8 of the candidate's immediate family files with the Secretary of State a certificate
9 accompanying the withdrawal request that describes the illness, condition or injury
10 and is signed by a licensed physician; or

11 C. Dies prior to the general election.

12 **2. Deadline for replacement of nominee.** A political committee may make a
13 replacement nomination for the general election:

14 A. No later than 5 p.m. of the 4th Monday in July preceding the general election for
15 a candidate who has withdrawn in accordance with subsection 1, paragraph A; or

16 B. As soon as practicable for a candidate who withdraws or is withdrawn in
17 accordance with subsection 1, paragraph B or C.

18 **2-A. Ballot procedure for replacement candidates.** If a political party makes a
19 replacement nomination for the general election by the deadline established in subsection
20 2, the Secretary of State shall produce new general election ballots or amend or
21 supplement general election ballots already printed in accordance with section 376 or
22 604.

23 **3. Deadline for ~~withdrawal~~ removal of candidate's name from general election**
24 **ballot.** A The name of a candidate for an office on the general election ballot must
25 withdraw at least who withdraws for any reason 70 days or more before the general
26 election in order for the candidate's name to must be removed from the ballot. Less than
27 70 days before the general election, a candidate may withdraw from the election by
28 providing a written notice to the Secretary of State that the candidate is withdrawing and
29 will not serve if elected. The If a candidate for an office on the general election ballot
30 withdraws less than 70 days before the general election and meets the criteria of
31 subsection 1, paragraph B or C, the candidate's name must be removed from the general
32 election ballot in accordance with section 376 or the general election ballot must be
33 amended or supplemented in accordance with section 604. If a candidate for an office on
34 the general election ballot withdraws less than 70 days before the general election and
35 does not meet the criteria of subsection 1, paragraph B or C, the candidate's name will not
36 be removed from the ballot, but upon receipt of the notice of late withdrawal required by
37 section 367, the Secretary of State shall instruct the immediately prepare and distribute to
38 the local election officials in the candidate's electoral district to distribute notices with
39 absentee ballots requested after that date and to post a notice at each voting place in the
40 district a notice informing voters that the candidate has withdrawn and that a vote for that
41 candidate will not be counted. The notice must be distributed with all absentee ballots
42 requested after the notice is received by the local election officials and, on election day,
43 must be posted outside the guardrail enclosure in accordance with section 651, subsection
44 2 and in each voting booth. Notice of the late a candidate's withdrawal less than 70 days

REC-11

1 before the general election must also be posted on the Secretary of State's publicly
2 accessible website.

3 **Sec. 7. 21-A MRSA §374-B** is enacted to read:

4 **§374-B. Special election candidates**

5 If a candidate for an office on a special election ballot dies or withdraws for any
6 reason, the candidate's name will not be removed from the ballot. The Secretary of State
7 shall immediately prepare and distribute to the local election officials in the candidate's
8 electoral district a notice informing voters that the candidate has died or has withdrawn
9 and that a vote for that candidate will not be counted. The notice must be distributed with
10 all absentee ballots requested after the notice is received by the local election officials
11 and, on election day, must be posted outside the guardrail enclosure in accordance with
12 section 651, subsection 2 and in each voting booth. Notice that the candidate has died or
13 has withdrawn must also be posted on the Secretary of State's publicly accessible website.

14 **Sec. 8. 21-A MRSA §376**, as amended by PL 2015, c. 447, §15, is further
15 amended to read:

16 **§376. Production of new ballots**

17 ~~**1. Federal or gubernatorial office.** If a candidate or nominee for a federal or~~
18 ~~gubernatorial office withdraws less than 70 days before any election, the Secretary of~~
19 ~~State is not required to produce new ballots.~~

20 **1-A. Removal of candidate's name from ballots.** The Secretary of State shall
21 remove a candidate's name from the ballot if the candidate withdraws for any reason 70
22 days or more before any primary or general election.

23 ~~**2. Certain state offices** **Production of new ballots listing replacement candidate.**~~
24 ~~The Secretary of State is required to shall produce new ballots only listing a replacement~~
25 ~~candidate if a candidate for an office, other than United States Senator, Representative to~~
26 ~~Congress or Governor, withdraws in accordance with section 374-A, subsection 1,~~
27 ~~paragraph A, B or C, a replacement candidate is nominated and a notification is filed with~~
28 ~~the Secretary of State by the appropriate committee of the political party making the~~
29 ~~nomination no later than 60 days before the election.;~~

30 A. A vacancy is declared under section 371, subsection 3 or section 374-A,
31 subsection 1, paragraph B or C, a replacement candidate is selected in accordance
32 with sections 363 and 365 and a notification is filed with the Secretary of State by the
33 committee of the political party that selected the replacement candidate no later than
34 60 days before the election; or

35 B. A vacancy is declared under section 374-A, subsection 1, paragraph A, a
36 replacement candidate is selected in accordance with sections 363 and 365 and a
37 notification is filed with the Secretary of State by the committee of the political party
38 that selected the replacement candidate before the deadline established in section
39 374-A, subsection 2, paragraph A.

40 **2-A. Procedure when replacement candidates selected less than 60 days before**
41 **the election.** If a candidate for an office withdraws in accordance with section 371,
42 subsection 3 or section 374-A, subsection 1, paragraph B or C, a replacement candidate is

1 selected in accordance with sections 363 and 365 and a notification is filed with the
2 Secretary of State by the appropriate committee of the political party making the
3 nomination less than 60 days before the election, the Secretary of State must amend or
4 supplement the ballots in accordance with section 604.

5 **3. List of candidates.** ~~Immediately after the last day for withdrawal, the~~ The
6 Secretary of State shall maintain and periodically update a list of all names to be placed
7 on the ballot for the primary or general election.

8 **Sec. 9. 21-A MRSA §604,** as amended by PL 1997, c. 436, §78, is further
9 amended to read:

10 **§604. Emergency ballot procedure**

11 In an emergency as described in subsection 2, the Secretary of State may prepare new
12 ballots, ~~amend those~~ direct that ballots already printed be amended or supplemented in
13 accordance with subsection 1 or 1-A or authorize any clerk to procure ballots from
14 another municipality or voting district. He may authorize any clerk to do the same.

15 **1. Ballots amended.** Ballots already printed may be amended by having corrective
16 stickers added, or by some other means, as directed by the Secretary of State.

17 **1-A. Supplemental notice.** The Secretary of State may prepare and distribute to the
18 local election officials in the candidate's electoral district a notice to supplement ballots
19 already printed. The notice may correct an error on the ballot or provide information on a
20 replacement candidate and how voters may vote for the replacement candidate. The
21 notice must be distributed with all absentee ballots issued after the date that the notice is
22 provided to the clerk and, on election day, must be posted outside the guardrail enclosure
23 in accordance with section 651, subsection 2 and in each voting booth.

24 **2. Emergency described.** An emergency may exist as follows:

- 25 A. If there is a shortage of ballots;
- 26 B. If the ballots are not delivered in time for the election;
- 27 C. If the ballots are missing, defaced or destroyed; ~~or~~
- 28 D. If the Secretary of State receives notification of a replacement of candidate to fill
29 a vacancy less than 60 days before the election in accordance with section 376,
30 subsection 2-A; or the correction of an error in the ballot requires its amendment.
- 31 E. If the ballots contain an error.

32 **3. ~~Candidate or nominee~~ Replacement candidate to fill vacancy.** When a
33 candidate ~~for nomination or a nominee~~ is chosen to fill a vacancy, the Secretary of State
34 and the clerk of each interested municipality shall perform the duties required by this
35 section as promptly as possible.

36 **Sec. 10. 21-A MRSA §651, sub-§2, ¶B,** as amended by PL 2017, c. 246, §1, is
37 further amended by enacting sub-¶(3-A) to read:

38 (3-A) A supplemental notice correcting an error or providing information on a
39 replacement candidate prepared under section 604 or a notice informing voters
40 that a vote for a candidate will not be counted because the candidate has died or

1 5. For uncontested primary elections, as in current practice, if a candidate dies or
2 becomes disqualified before the primary election or withdraws for another reason 70 days
3 or more before the primary election, the appropriate political committee may select a
4 replacement candidate. Also as in current practice, if the Secretary of State receives
5 notification of the replacement candidate 60 days or more before the primary election,
6 new ballots listing the replacement candidate must be printed. If the Secretary of State
7 receives notification of the replacement candidate less than 60 days before the primary
8 election, however, the amendment newly clarifies that the Secretary of State is not
9 required to print new ballots but may amend ballots already printed or issue a notice to
10 supplement ballots already printed informing voters of the replacement candidate and
11 instructing voters how they may vote for the replacement candidate.

12 6. For contested primary elections, as in current practice, if a candidate dies or
13 becomes disqualified 70 days or more before the primary election, the candidate's name
14 will be removed from the ballot but a replacement candidate may not be named. If a
15 candidate dies or becomes disqualified less than 70 days before a contested primary
16 election, the amendment newly clarifies that although the candidate's name will not be
17 removed from the ballot, voters casting ballots after the death or disqualification will be
18 notified that the candidate is no longer running for office and that votes for the candidate
19 will not be counted.

20 7. For both contested and uncontested primary elections, as in current practice, the
21 name of a candidate who withdraws less than 70 days before the primary election will not
22 be removed from the ballot and voters casting ballots after the withdrawal will be notified
23 that the candidate has withdrawn and that a vote for that candidate will not be counted.

24 8. For special elections to fill a vacancy in an office, as in current practice, if a
25 candidate dies or withdraws from the election for any reason, the candidate's name will
26 not be removed from the ballot and voters casting ballots after the death or withdrawal
27 will be notified that the candidate has died or has withdrawn and that a vote for that
28 candidate will not be counted.

29 The amendment also makes a technical change to the law governing municipal
30 elections by removing language requiring ballots to be printed so that voters mark their
31 choices in squares printed to the left of each candidate's name and substituting language
32 authorizing ballots to be printed in any way that allows the voter to designate the voter's
33 choice.