

MAINE STATE LEGISLATURE

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Date: 3/29/24

L.D. 1959

(Filing No. S-625)

MINORITY

VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE

SENATE

131ST LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 795, L.D. 1959, "An Act Regarding Open Primary Elections and Ranked-choice Voting"

Amend the bill by striking out the title and substituting the following:

'An Act to Allow Political Parties to Use a Primary Election or a Nomination Caucus to Determine Candidates for Federal, State or County Office'

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 21-A MRSA §321, sub-§1, as amended by PL 2021, c. 750, §4 and affected by §14, is further amended to read:

1. Time, place and representation. The party's state committee shall determine the time, place and basis of representation for the convention, except that unenrolled voters who participate in the party's primary election, if the party holds a primary election, must be considered members of the party for purposes of allocating delegates. Delegates must be members of the party unless otherwise permitted by party rules.

Sec. 2. 21-A MRSA §321, sub-§2, ¶E, as enacted by PL 1985, c. 161, §6, is amended to read:

E. Elect a district committee for each congressional district; ~~and~~

Sec. 3. 21-A MRSA §321, sub-§2, ¶F, as amended by PL 2005, c. 387, §4, is further amended to read:

F. Elect a county committee for each county from persons nominated at municipal caucuses held in the county, unless party rules provide for county committee members to be elected directly by their respective municipalities. If a municipality entitled to nominate a person for election to the county committee fails to do so, the convention may elect any resident of that municipality to the county committee; and

Sec. 4. 21-A MRSA §321, sub-§2, ¶G is enacted to read:

COMMITTEE AMENDMENT

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2 G. Determine if the party will hold a primary election or a nomination caucus for the
3 general election following the next general election after the party's convention. If the
4 party determines to hold a nomination caucus, the party must establish the date for the
5 nomination caucus to be held. The party's final determination must be incorporated into
6 the party's rules.

7 **Sec. 5. 21-A MRSA c. 5, sub-c. 1, art. 4,** headnote is amended to read:

8 **ARTICLE 4**

9 **NOMINATION BY PRIMARY ELECTION OR NOMINATION CAUCUS**

10 **Sec. 6. 21-A MRSA §331,** as amended by PL 2015, c. 447, §8, is further amended to read:

11 **§331. Primary election or nomination caucus required**

12 **1. Nomination by primary election or nomination caucus.** A party's nomination of
13 a candidate must be made by primary election or by nomination caucus, as provided in this
14 Article. When there is an office for which no candidate has qualified either by filing a
15 petition and consent under sections 335 and 336 or as a write-in candidate in accordance
16 with section 722-A, the Secretary of State is not required to list the office on the primary
17 ballot. The Secretary of State is not required to print a primary ballot if there are no offices
18 for which a candidate has qualified or if the party has determined to use a nomination
19 caucus under section 321.

20 **2. Exceptions.** This Article does not apply to:

- 21 A. Nominations for presidential electors;
- 22 B. Nominations to fill vacancies under subchapter ~~III~~ 3; and
- 23 C. Nominations by petition under subchapter ~~II~~ 2.

24 **3. Limitations to candidacy.** The following limitations apply to all candidates for
25 nominations.

26 A. A person may not file, whether by primary election, nomination caucus or
27 nomination petition, as a candidate for more than one federal, state or county office at
28 any election, except for a candidate for membership in a county charter commission or
29 a candidate for presidential elector under section 351, subsection 3.

30 B. A person may file as a candidate for any federal, state or county office either by
31 primary election, nomination caucus or nomination petition but not ~~by both~~ in
32 combination, except for a candidate for membership in a county charter commission
33 under section 351, subsection 3.

34 **Sec. 7. 21-A MRSA §333,** as corrected by RR 2019, c. 2, Pt. B, §40, is amended to
35 read:

36 **§333. Qualification for county office**

37 A candidate for any county office must be a resident of and a voter in the electoral
38 division the candidate seeks to represent on the date established for filing primary or
39 nomination caucus petitions in the year the candidate seeks election. The elected official

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must maintain a voting residence in that electoral division during that elected official's term of office.

Sec. 8. 21-A MRSA §334, as amended by PL 2009, c. 253, §16, is further amended to read:

§334. Qualification of candidate for nomination by primary election or nomination caucus

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

Sec. 9. 21-A MRSA §335, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

A primary or nomination caucus petition ~~shall~~ must be on a form provided by the Secretary of State and is governed by the following provisions.

Sec. 10. 21-A MRSA §335, sub-§1, as amended by PL 2023, c. 389, §1, is further amended to read:

1. Content. A primary or nomination caucus petition must contain the name of only one candidate and that candidate's municipality of residence, party, office sought and electoral division. A primary or nomination caucus petition may contain as many separate papers as necessary and may contain the candidate's consent required by section 336.

A. When 2 United States Senators are to be nominated, the primary or nomination caucus petition must contain the term of office sought by the candidate.

Sec. 11. 21-A MRSA §335, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. By whom signed. A primary or nomination caucus petition may be signed only by voters of the electoral division ~~which~~ that is to make the nomination and who are enrolled in the party named in the petition. Other signatures are void.

Sec. 12. 21-A MRSA §335, sub-§7, as amended by PL 2009, c. 253, §17, is further amended to read:

7. Certification of petition. A primary or nomination caucus petition ~~shall~~ must be verified and certified as follows.

A. The circulator of a primary or nomination caucus petition shall verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the circulator personally witnessed all of the signatures to the petition and that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be; each signature authorized under section 153-A was made by the authorized signer in the presence and at the direction of the voter; and each person is enrolled in the party named in the petition and is a resident of the electoral division named in the petition.

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B. The registrar, or clerk at the request or upon the absence of the registrar, of each municipality concerned shall certify which names on a petition appear in the central voter registration system as registered and enrolled voters in that municipality and may not certify any names that do not satisfy subsection 3.

Sec. 13. 21-A MRSA §335, sub-§8, as amended by PL 2019, c. 445, §3, is further amended to read:

8. When filed. Except as provided in subchapter 8, a primary or nomination caucus petition must be filed in the office of the Secretary of State before 5 p.m. on March 15th of the election year in which it is to be used.

Sec. 14. 21-A MRSA §336, as amended by PL 2023, c. 304, Pt. A, §5 and c. 389, §2, is further amended to read:

§336. Consent of candidate to be filed

The written consent of each candidate must be filed either with that candidate's primary or nomination caucus petition or at any earlier time during which signatures may be collected under section 335 or, if applicable, subchapter 8.

1. Consent. The consent must contain a statement signed by the candidate that the candidate will accept the nomination of the primary election or nomination caucus. The Secretary of State shall provide a form on which the consent of the candidate is made that must include a list of the statutory and constitutional requirements of the office sought by the candidate. The statement may be printed as a part of the primary or nomination caucus petition.

2. Single filing sufficient. A candidate need file only one consent. This consent is valid even though it may be part of a primary or nomination caucus petition ~~which that~~ is void.

3. Residence and party declared. The consent must contain a declaration of the candidate's place of residence and party designation and a statement that the candidate meets the qualifications of the office the candidate seeks, which the candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If, pursuant to the challenge procedures in section 337, any part of the declaration is found to be false by the Secretary of State, the consent and the primary or nomination caucus petition are void. Upon written request by the candidate to the Secretary of State, the Secretary of State may treat the candidate's street name and number as confidential as long as the street name and number are not material to the candidate's qualifications to serve.

Sec. 15. 21-A MRSA §337, as amended by PL 2011, c. 342, §9, is further amended to read:

§337. Review and challenge of petitions

1. Review. When presented with a primary or nomination caucus petition, the Secretary of State shall review ~~the petition~~ and, if the petition contains the required number of certified names and is properly completed, shall accept and file ~~the petition~~.

2. Challenges. The procedure for challenging the validity of a primary or nomination caucus petition or of names upon a petition is as follows.

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A. Only a registered voter residing in the electoral division of the candidate concerned may file a challenge. The challenge must be in writing and must set forth the reasons for the challenge. The challenge must be filed in the office of the Secretary of State before 5 p.m. on the 5th business day after the final date for filing petitions under section 335, subsection 8.

B. Within 7 days after the final date for filing challenges and after due notice of the hearing to the candidate and to the challenger, the Secretary of State shall hold a public hearing on any challenge properly filed. The challenger has the burden of providing sufficient evidence to invalidate the petitions or any names upon the petitions.

C. The Secretary of State shall rule on the validity of any challenge within 5 days after the completion of the hearing described in paragraph B.

D. A challenger or a candidate may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action must be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80C, except as modified by this section. This action must be commenced within 5 days of the date of the decision of the Secretary of State. Upon timely application, anyone may intervene in this action when the applicant claims an interest relating to the subject matter of the petitions, unless the applicant's interest is adequately represented by existing parties. The court shall issue a written decision containing its findings of fact and conclusions of law and setting forth the reasons for its decision within 20 days of the date of the decision of the Secretary of State.

E. Any aggrieved party may appeal the decision of the Superior Court, on questions of law, by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after notice of appeal is filed. After filing notice of appeal, the parties have 4 days to file briefs and appendices with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The court shall issue its decision within 14 days of the date of the decision of the Superior Court.

Sec. 16. 21-A MRSA §338, as corrected by RR 2019, c. 2, Pt. B, §44, is amended to read:

§338. Write-in candidates

A person whose name will not appear on the printed primary ballot or on the candidate list for a nomination caucus because that person did not file a petition and consent under sections 335 and 336, but who fulfills the other qualifications under section 334, may be nominated at the primary election as a write-in candidate in accordance with section 723, subsection 1 or at a nomination caucus if that person receives a number of votes equal to at least twice the minimum number of signatures required under section 335, subsection 5.

Sec. 17. 21-A MRSA §339, as enacted by PL 1985, c. 161, §6, is amended to read:

§339. Time and nature of election

~~The~~ A primary election shall must be held on the 2nd Tuesday of June of each general election year and is considered to be a separate election for each party ~~which~~ that takes part in it. This includes the duties of public officials in announcing the election, providing forms and ballots, keeping records and any other matter necessary to effect the purpose of a

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primary election. A primary election shall must be conducted in the same manner as the general election, as nearly as practicable, for each party. A nomination caucus must be held on the date determined by the party for the nomination caucus under section 321.

Sec. 18. 21-A MRSA §441, as amended by PL 2021, c. 273, §7 and c. 750, §§7 and 8 and affected by §14, is further amended by amending the section headnote to read:

§441. Determination and date of primary or caucus; voter eligibility

Sec. 19. 21-A MRSA §441, sub-§1, as amended by PL 2021, c. 273, §7, is further amended to read:

1. Determination of primary or caucus. No later than October 1st of the year prior to a presidential election year, the state committee of each party shall certify whether there is a contest among candidates for nomination as the presidential candidate and whether such contest must be determined by presidential primary election or by presidential nomination caucus, as determined by the party at the party's convention under section 321. Upon receiving the certification from one or more parties, the Secretary of State shall announce the parties that will have a presidential primary election, which must be held on the first Tuesday after the first Monday in March of the presidential election year, or a presidential nomination caucus, which must be held on the date determined by the party at the party's convention under section 321.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill and changes the title. The amendment allows a political party to determine whether that party will use a primary election or a nomination caucus to determine candidates for federal, state or county office, including presidential candidates. The party must determine at the state convention held between March 1st and August 1st biennially during each general election year whether that party will hold a primary election or nomination caucus for the general election following the next general election after the party's convention. The party also is required to establish the date for such a nomination caucus and must incorporate the party's final determination into the party rules. Candidates for a nomination caucus are required to qualify in the same way as candidates for a primary election.

FISCAL NOTE REQUIRED

(See attached)



131st MAINE LEGISLATURE

LD 1959

LR 1162(02)

An Act Regarding Open Primary Elections and Ranked-choice Voting

Fiscal Note for Bill as Amended by Committee Amendment *"A"(S-625)*
Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Secretary of State associated with this bill are expected to be minor and can be absorbed within existing budgeted resources.