

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Establish a Presidential Primary in the State

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

Sec. 1. 21-A MRSA §335, sub-§5, ¶B-2 is enacted to read:

B-2. For a candidate for the office of President of the United States, at least 2,000 and not more than 3,000 voters;

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

6. When signed. ~~A~~ Except as provided in subchapter 7, a petition may not be signed before January 1st of the election year in which it is to be used.

Sec. 3. 21-A MRSA §335, sub-§8, as amended by PL 1995, c. 459, §23, is further amended to read:

8. When filed. ~~A~~ Except as provided in subchapter 7, a primary 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. 4. 21-A MRSA c. 5, sub-c. 7 is enacted to read:

SUBCHAPTER 7

PRESIDENTIAL PRIMARY ELECTIONS

§ 431. Determination and date of primary; voter eligibility

1. Determination of primary. Whenever the state committee of a party certifies that there is a contest among candidates for nomination as the presidential candidate of the party and that the committee has voted to conduct a presidential primary election, the State shall hold a presidential primary election.

2. Date of primary. A presidential primary election held pursuant to subsection 1 may not be held earlier than January 1st of the year in which the presidential election is held. The date of the presidential primary election must be chosen in the following manner.

A. If certification is made pursuant to subsection 1 for only one party and that party chooses a date for the presidential primary election, the State shall hold the election on that date. The party shall deliver to the Secretary of State notification of the chosen date by December 1st of the year prior to the presidential election year.

B. If certification is made pursuant to subsection 1 for more than one party and those parties agree by November 1st of the year prior to the presidential election year to one date, the State shall hold the presidential primary election on that agreed-upon date.

C. If a party does not choose a date pursuant to paragraph A or there is no agreement on a date pursuant to paragraph B, the State shall hold the presidential primary election on the first Tuesday in March or the first Tuesday after the presidential primary election in New Hampshire, whichever is earlier, as long as the election is held in the presidential election year. The date for the presidential primary election may not be earlier than the presidential primary election in New Hampshire.

3. Eligible voter. Notwithstanding section 340, subsection 1, only a voter who is enrolled in a party may vote in the party's presidential primary election.

§ 432. Party certification

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

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

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

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

§ 433. Petitions

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

§ 434. Ballot preparation; candidate eligibility

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

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

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

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

B. The Secretary of State shall determine which candidates will be placed on the ballot under this subsection at least 30 days before the ballots are prepared. The Secretary of State shall promptly notify a person that the person's name will appear on the ballot and advise that person of the steps under paragraph C that the person must take if the person does not wish to appear on the ballot.

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

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

§ 435. Selection of delegates

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

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

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

A. A candidate receiving 10% or more of the total votes for candidates or uncommitted is allocated a share of delegates that approaches, as closely as possible, the respective share of the total vote.

B. The percentages of votes attributable to candidates receiving less than 10% of the total vote must be added to the total percentage of uncommitted votes for the purpose of allocating delegates.

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

3. Committed delegates. A delegate elected for a particular presidential candidate according to the proportional allocation specified by this section shall vote for that candidate on the first ballot at the national presidential nominating convention, unless the state committee of the party affirmatively votes

to follow another procedure or, prior to the filing of the certification under section 431, subsection 1, the candidate for whom a particular delegate is elected specifically withdraws, as verified by the chair of the national party, from consideration for the presidential nomination at any time before the first ballot at the national presidential nominating convention.

§ 436. Cost

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

§ 437. Effective date

This subchapter takes effect July 1, 2013.

Sec. 5. 21-A MRSA §601-B is enacted to read:

§ 601-B. Presidential primary ballot

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

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

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

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

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

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

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

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

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

3. Distinctively colored. The ballots must be printed separately for each party on paper of a distinctive color, using white for the party that cast the greatest number of votes for Governor at the last gubernatorial election and yellow for the party that cast the 2nd highest. The Secretary of State shall choose a distinctive color for ballots for any other party.

SUMMARY

This bill amends the presidential nomination process in the State. The bill provides that, whenever the state committee of a party certifies that there is a contest among candidates for nomination as the presidential candidate of the party and that the committee has voted to conduct a presidential primary election, the State shall hold a presidential primary election. Under the bill, only voters who are enrolled in the party may vote in that party's presidential primary election. Under the bill, delegates to the national convention must be allocated in proportion with the candidate votes and the uncommitted votes cast in the presidential primary election of the party.