



# 127th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2016

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Legislative Document

No. 1673

S.P. 685

In Senate, March 23, 2016

### **An Act To Establish a Presidential Primary System in Maine**

(AFTER DEADLINE)

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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, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator ALFOND of Cumberland.

Cosponsored by Representative PARRY of Arundel and

Senators: BAKER of Sagadahoc, BREEN of Cumberland, BURNS of Washington, CUSHING of Penobscot, CYRWAY of Kennebec, DAVIS of Piscataquis, DIAMOND of Cumberland, DILL of Penobscot, GRATWICK of Penobscot, HASKELL of Cumberland, HILL of York, JOHNSON of Lincoln, LIBBY of Androscoggin, ROSEN of Hancock, SAVIELLO of Franklin, President THIBODEAU of Waldo, VOLK of Cumberland, WOODSOME of York, Representatives: BATTLE of South Portland, BEAVERS of South Berwick, BECK of Waterville, BEEBE-CENTER of Rockland, BLACK of Wilton, BURSTEIN of Lincolnville,

CAMPBELL of Newfield, CHENETTE of Saco, CHIPMAN of Portland, COREY of Windham, CRAFTS of Lisbon, DAUGHTRY of Brunswick, DAVITT of Hampden, DUCHESNE of Hudson, DUNPHY of Old Town, EVANGELOS of Friendship, FOLEY of Wells, FREDETTE of Newport, GERRISH of Lebanon, HANINGTON of Lincoln, HANLEY of Pittston, HARRINGTON of Sanford, HAWKE of Boothbay Harbor, HEAD of Bethel, HOBART of Bowdoinham, HOGAN of Old Orchard Beach, HUBBELL of Bar Harbor, HYMANSON of York, KINNEY of Limington, KORNFELD of Bangor, LAJOIE of Lewiston, LOCKMAN of Amherst, LONG of Sherman, LONGSTAFF of Waterville, MAKER of Calais, MALABY of Hancock, MARTIN of Sinclair, McCABE of Skowhegan, McCREIGHT of Harpswell, McELWEE of Caribou, McLEAN of Gorham, MOONEN of Portland, O'CONNOR of Berwick, ORDWAY of Standish, PICCHIOTTI of Fairfield, PIERCE of Dresden, PIERCE of Falmouth, PRESCOTT of Waterboro, RUSSELL of Portland, RYKERSON of Kittery, SAUCIER of Presque Isle, SCHNECK of Bangor, SEAVEY of Kennebunkport, SIROCKI of Scarborough, SKOLFIELD of Weld, TEPLER of Topsham, TIMBERLAKE of Turner, TIMMONS of Cumberland, TUELL of East Machias, TURNER of Burlington, VACHON of Scarborough, WADSWORTH of Hiram, WARD of Dedham, WARREN of Hallowell, WELSH of Rockport.

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

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

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

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

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

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

11 **8. When filed.** ~~A~~ Except as provided in subchapter 7, a primary petition must be  
12 filed in the office of the Secretary of State before 5 p.m. on March 15th of the election  
13 year in which it is to be used.

14 **Sec. 4. 21-A MRSA c. 5, sub-c. 7** is enacted to read:

15 **SUBCHAPTER 7**

16 **PRESIDENTIAL PRIMARY ELECTIONS**

17 **§431. Determination and date of primary; voter eligibility**

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

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

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

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

1           C. If a party does not choose a date pursuant to paragraph A or there is no agreement  
2           on a date pursuant to paragraph B, the State shall hold the presidential primary  
3           election on the first Saturday after the first Friday in March.

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

6           **§432. Party certification**

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

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

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

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

16           **§433. Petitions**

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

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

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

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

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

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

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

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

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

13           **§435. Selection of delegates**

14           1. Selection of delegates. If a party chooses to participate in a presidential primary  
15           election under this subchapter, delegates to national presidential nominating conventions  
16           may be selected by the party meeting in convention under subchapter 1, article 3 at any  
17           time after the presidential primary election. Selection of delegates must be in accordance  
18           with any reasonable procedures established at the state party convention.

19           2. Allocation of delegates. In the absence of any procedures established by state or  
20           national party rules, the allocation of delegates must be as set out in this subsection.

21           A. Delegates to the national convention must be allocated in proportion with the  
22           candidate votes and the uncommitted votes cast in the presidential primary election of  
23           the party.

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

27                   (2) The percentages of votes attributable to candidates receiving less than 10%  
28                   of the total vote must be added to the total percentage of uncommitted votes for  
29                   the purpose of allocating delegates.

30           B. A delegate elected as an uncommitted delegate may support any presidential  
31           candidate at any time and may change support for this candidate in the delegate's sole  
32           discretion.

33           C. A delegate elected for a particular presidential candidate according to the  
34           proportional allocation specified by paragraph A shall vote for that candidate on the  
35           first ballot at the national presidential nominating convention, unless the state  
36           committee of the party affirmatively votes to follow another procedure or, prior to the  
37           filing of the certification under section 431, subsection 1, the candidate for whom a  
38           particular delegate is elected specifically withdraws, as verified by the chair of the  
39           national party, from consideration for the presidential nomination at any time before  
40           the first ballot at the national presidential nominating convention.

1        **§436. Cost**

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

4        **§437. Effective date**

5            This subchapter takes effect July 1, 2017.

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

7        **§601-B. Presidential primary ballot**

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

10          **1. Arrangement.** The presidential primary election ballot must be arranged in a  
11 manner that is as consistent and uniform as possible throughout the State.

12          **2. Content.** The presidential primary election ballot must contain the items listed in  
13 this subsection.

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

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

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

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

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

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

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

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**SUMMARY**

2           This bill amends the presidential nomination process in the State, to be in place for  
3 the 2020 presidential election. The bill provides that, whenever the state committee of a  
4 party certifies that there is a contest among candidates for nomination as the presidential  
5 candidate of the party and that the committee has voted to conduct a presidential primary  
6 election, the State shall hold a presidential primary election. Under the bill, only voters  
7 who are enrolled in the party may vote in that party's presidential primary election.  
8 Under the bill, delegates to the national convention must be allocated in proportion with  
9 the candidate votes and the uncommitted votes cast in the presidential primary election of  
10 the party.