



Mike Tipping
Senator, District 8

THE MAINE SENATE
132nd Legislature

3 State House Station
Augusta, Maine 04333

Senator Hickman, Representative Supica and honorable members of the Veterans and Legal Affairs Committee,

My name is Mike Tipping, I represent Senate District 8 in Penobscot County and it's my privilege to present LD 911, An Act to Modify Ranked-choice Voting with Regard to Candidates Who Withdraw from an Election.

This bill is designed to fix a small and I believe unintended idiosyncrasy of our system of ranked-choice voting. In cases where a candidate for a position being decided by ranked-choice voting withdraws, currently their votes may not go to the candidate those voters ranked second, and in fact they may not be counted at all.

We saw this happen just last year, when former State Senator Ben Chipman withdrew from the primary for House District 118 one day before the election. Instead of ballots where he was ranked first being re-allocated to the other candidates, former Representative Herb Adams and now-current Representative Yusuf Yusuf, they were treated as if they were blank ballots and the voters' second-choice preferences were ignored. I don't believe this flaw in the system influenced the outcome of that particular race, but we can all imagine circumstances where it could decide an election.

LD 911 and the proposed amendment would solve this problem, ensuring that after the 70-day deadline for withdrawal, when ballots are finalized and printed, elections will be guaranteed to go to either the candidate who wins an outright majority of all votes cast or who wins an eventual majority in a subsequent round of ranked-choice voting.

I've submitted the attached amendment for your consideration after speaking with representatives of the League of Women Voters and realizing that the bill as originally drafted didn't fully solve the identified problem as it didn't specify that the total pool of ballots must be considered in the determination of a majority.

Regardless of whether you support ranked-choice voting, or any electoral reform, I believe we can all agree that all legally-cast ballots should be counted and that Mainers who vote in an election with the expectation that their ranked preferences will be honored will have their voices heard.

Thank you for your consideration of this bill and I'm happy to attempt to answer any questions.

§1. Definitions

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings.

27-C. Elections determined by ranked-choice voting. "Elections determined by ranked-choice voting" means any of the following elections in which 3 or more candidates ~~are have qualified to be~~ listed on the ballot for a particular office or at least 2 such candidates plus one or more declared write-in candidates have qualified for that particular office, even if one or more of these candidates dies, is disqualified or withdraws after the ballots have been printed:

- A. Primary elections for the offices of United States Senator, United States Representative to Congress, Governor, State Senator and State Representative; [PL 2021, c. 273, §1 (RPR).]
- B. General and special elections for the offices of United States Senator and United States Representative to Congress; [PL 2021, c. 273, §1 (RPR).]
- D. General elections for presidential electors; and [PL 2021, c. 273, §1 (RPR).]
- E. Primary elections for the office of President of the United States. [PL 2021, c. 273, §1 (RPR).]

§723-A. Determination of winner in election for an office elected by ranked-choice voting
(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. [PL 2023, c. 304, Pt. A, §14 (RP).]
- B. "Continuing ballot" means a ballot that is not an exhausted ballot. [IB 2015, c. 3, §5 (NEW).]
- C. "Continuing candidate" means a candidate who has not been defeated or excluded. [IB 2015, c. 3, §5 (NEW).]
- C-1. "Excluded candidate" means any candidate who is listed on the ballot or who has qualified as a declared write-in candidate, but who has died, been disqualified, or withdrawn after the ballots have been printed.
- D. "Exhausted ballot" means a ballot that does not rank any continuing candidate, contains an overvote at the highest continuing ranking or contains 2 or more sequential skipped rankings before its highest continuing ranking. [IB 2015, c. 3, §5 (NEW).]
- E. "Highest continuing ranking" means the highest ranking on a voter's ballot for a continuing candidate. [IB 2015, c. 3, §5 (NEW).]
- F. "Last-place candidate" means the candidate with the fewest votes in a round of the ranked-choice voting count. [PL 2019, c. 320, §9 (AMD).]
- G. [PL 2023, c. 304, Pt. A, §15 (RP).]
- H. "Overvote" means a circumstance in which a voter has ranked more than one candidate at the same ranking. [IB 2015, c. 3, §5 (NEW).]
- H-1. "Ranked-choice voting count" means the ranked-choice counting process described in this section and in rules adopted by the Secretary of State. [PL 2019, c. 320, §10 (NEW).]

I. "Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's preference for that candidate. Ranking number one is the highest ranking, ranking number 2 is the next-highest ranking and so on. [IB 2015, c. 3, §5 (NEW).]

J. "Round" means an instance of the sequence of vote counting steps established in subsection 2 and in rules adopted by the Secretary of State. [PL 2019, c. 320, §11 (AMD).]

K. "Skipped ranking" means a circumstance in which a voter has left a ranking blank and ranks a candidate at a subsequent ranking. [IB 2015, c. 3, §5 (NEW).]
[PL 2023, c. 304, Pt. A, §§14, 15 (AMD).]

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

A. If there are 2 or fewer continuing candidates, the candidate with the most votes is declared the winner of the election. [IB 2015, c. 3, §5 (NEW).]

B. If there are more than 2 continuing candidates, the last-place candidate is defeated and a new round begins. [IB 2015, c. 3, §5 (NEW).]
[PL 2019, c. 320, §12 (AMD).]

2-A. Excluded candidates. In any round, including the first round, a ballot on which an excluded candidate is highest-ranked must be counted for the next highest-ranked continuing candidate.

3. Ties. A tie under this section between last-place candidates in any round must be decided by lot, and the candidate chosen by lot is defeated. The result of the tie resolution must be recorded and reused in the event of a recount. A tie between candidates for the most votes in the final round must be decided as provided in section 732.
[PL 2019, c. 320, §13 (AMD).]

4. Modification of ranked-choice voting ballot and ranked-choice voting count. Modification of a ranked-choice voting ballot and ranked-choice voting count is permitted in accordance with the following.

A. The number of allowable rankings may be limited to no fewer than 5. [PL 2019, c. 320, §14 (AMD).]

B. A candidate may be declared the winner of the election without a ranked-choice voting count only if that candidate has been assigned ranking number one on more than 50% of all ballots cast, including but not limited to ballots on which ranking number one is blank, an overvote, or assigned to an excluded candidate.

[PL 2023, c. 304, Pt. A, §16 (RP).] [PL 2023, c. 304, Pt. A, §16 (AMD).]

5. Effect on rights of political parties. For all statutory and constitutional provisions in the State pertaining to the rights of political parties, the number of votes cast for a party's candidate for an office determined by ranked-choice voting is the number of votes credited to that candidate after the initial counting in the first round described in subsection 2.
[PL 2017, c. 316, §9 (AMD).]

5-A. Rules. The Secretary of State shall adopt rules for the proper and efficient administration of elections determined by ranked-choice voting. At a minimum, rules required under this subsection

must include procedures, as determined appropriate by the Secretary of State, for requesting and conducting recounts of the results as determined in the rounds of counting described in subsection 2. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[PL 2019, c. 320, §15 (AMD).]

5-B. (TEXT EFFECTIVE UNTIL 1/01/24) Presidential primary elections; selection of delegates. Notwithstanding any provision of this section to the contrary, for presidential primary elections, tabulation must continue until only 2 continuing candidates remain, separate tabulations must be conducted statewide and for each congressional district and selection and allocation of delegates to a party's national presidential nominating convention must be in accordance with any reasonable procedures established at the state party convention.

[PL 2023, c. 304, Pt. A, §17 (AMD).]

5-B. (TEXT EFFECTIVE 1/01/24) Presidential primary elections; selection of delegates. Notwithstanding any provision of this section to the contrary, for presidential primary elections, tabulation must continue until only 2 continuing candidates remain, separate tabulations must be conducted statewide and for each congressional district and selection and allocation of delegates to a party's national presidential nominating convention must be in accordance with any reasonable procedures established at the state party convention, except that unenrolled voters who participate in the party's primary election must be considered members of the party for purposes of allocating delegates.

[PL 2023, c. 304, Pt. A, §18 (AMD); PL 2023, c. 304, Pt. A, §39 (AFF).]

5-C. Cast vote record posted. The Secretary of State shall post the complete cast vote record on its publicly accessible website as soon as the certified results are reported.

[PL 2023, c. 304, Pt. A, §19 (NEW).]

6. Application. This section applies to elections held on or after January 1, 2018.

[IB 2015, c. 3, §5 (NEW).]

SECTION HISTORY

IB 2015, c. 3, §5 (NEW). PL 2017, c. 316, §§8-10 (AMD). PL 2019, c. 320, §§9-15 (AMD). PL 2019, c. 539, §3 (AMD). PL 2019, c. 539, §6 (AFF). PL 2021, c. 273, §11 (AMD). PL 2021, c. 750, §11 (AMD). PL 2021, c. 750, §14 (AFF). PL 2023, c. 304, Pt. A, §§14-19 (AMD). PL 2023, c. 304, Pt. A, §39 (AFF).

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