

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 Open Ballot Voting in Maine

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

Sec. 1. 21-A MRSA §1, sub-§24, as enacted by PL 1985, c. 161, §6, is amended to read:

24. Minor party. "Minor party" means a political party other than a major party that qualifies for minor party status under section 301, subsection 3, paragraph A.

Sec. 2. 21-A MRSA §23, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Nominating petitions. The Secretary of State shall keep ~~primary~~ nominating petitions and consents in ~~his~~ the Secretary of State's office for 2 years.

Sec. 3. 21-A MRSA §144, sub-§3, as amended by PL 1995, c. 459, §16, is further amended to read:

3. Restrictions during change of enrollment. Except as provided in subsection 4, a voter may not vote at a caucus, convention or primary election for 15 days after filing an application to change enrollment. ~~A voter must file an application to change enrollment prior to January 1st to be eligible to file a petition as a candidate in that election year.~~

Sec. 4. 21-A MRSA §144, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Change of residence. When a voter changes ~~his~~ residence from one municipality to another and establishes a new voting residence there, ~~he~~ the voter may enroll in any party and vote at a caucus, convention or primary election, ~~or file a petition as a candidate for nomination by primary election,~~ regardless of ~~his~~ the voter's previous enrollment.

Sec. 5. 21-A MRSA §301, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. General election. A party ~~which~~ that qualifies under subsection 1 to participate in a primary election must, in that same year, hold a state convention as prescribed by Article ~~HH3~~ in order to have the party designation of its candidates printed on the ballot in the general election of that year. A party that qualifies under subsection 3 to nominate by convention must, in that same year, hold a state convention as prescribed by Article 3 in order to have the party designation of its candidates printed on the ballot in the general election of that year.

Sec. 6. 21-A MRSA §301, sub-§3 is enacted to read:

3. Nomination by convention. A party qualifies to nominate by convention if it qualifies as a minor party under this section.

A. The party has filed a declaration of intent with the Secretary of State, or has on file an existing declaration of intent with the Secretary of State, that indicates the party's intention to operate as a minor party, and the party held a state convention as prescribed by Article 3 during the election year in which the designation was listed on the ballot and any interim year, and one of the following occurred:

(1) Its candidate for Governor or President received at least 2 1/2% of the total vote cast in the State for Governor or President in either of the 2 preceding general elections; or

(2) The party obtains signatures in the amount and manner described in section 303-A between January 1st of the year preceding a general election and January 1st of that general election year.

Each minor party state committee shall file a statement with the Secretary of State on or before June 20th certifying that the party has held the state convention required by paragraph A. The statement must be signed by the party chair or the chair's designated agent.

Sec. 7. 21-A MRSA §303-A is enacted to read:

§ 303-A. Formation of new minor party

A party whose designation was not listed on the general election ballot in the last preceding general election qualifies to nominate by convention, if it meets the requirements of subsections 1, 2 and 3 or if it meets the requirements of subsections 4, 5, 6 and 7.

1. Declaration of intent. A voter or a group of voters not enrolled in a party qualified under section 301 must file a declaration of intent to form a party with the Secretary of State before 5 p.m. on the 180th day preceding the next primary election. The declaration of intent must be on a form designed by the Secretary of State and must include:

A. The designation of the proposed party;

B. The name of a candidate for Governor or for President in the last preceding general election who was nominated by primary election, petition or convention under subchapter 2 and who received 2 1/2% or more of the total vote cast in the State for Governor or for President in that election; and

C. The name, address, telephone number, if published, and signature of the voter or one of the group of voters who files the declaration of intent.

2. Enrollment of voters. After filing the declaration described in subsection 1, the voter or voters proposing to form the party may then enroll voters in the proposed party under sections 141 to 145.

3. Convention. A party that has qualified under subsections 1 and 2 to nominate by convention must in that same year hold a state convention as prescribed by Article 3 in order to have the party designation of its candidates printed on the ballot in the general election of that year. The voter or group of voters who files the declaration of intent may perform the duties of the state committee under section 321, subsection 1 for the party's initial convention.

4. Declaration of intent. Ten or more voters who are not enrolled in a party qualified under section 301 must file a declaration of intent to form a party with the Secretary of State. The declaration of intent must be on a form designed by the Secretary of State and must include:

A. The designation of the proposed party; and

B. The names, addresses, telephone numbers, if published, and signatures of the voters who file the declaration of intent.

5. Enrollment of voters. After filing the declaration of intent required in subsection 1, the voter or voters proposing to form the party may then enroll voters in the proposed party under sections 141 to 145.

6. Petition. After the filing of the declaration described in subsection 5, the Secretary of State or the Secretary of State's designee shall review the declaration and determine the form of the petitions to be submitted to the voters. The voter or voters proposing to form the party shall print the petitions in the form approved by the Secretary of State and may then circulate the petitions. These petitions must be signed, verified and certified in the same manner as primary petitions under section 335, subsections 3, 4 and 7, except that any registered voter may sign the petitions. Each page of the petition must have a caption, in conspicuous type, that contains the designation of the proposed party followed by the words, "Petition to nominate by convention." The petitions must be filed in the office of the Secretary of State before 5 p.m. on the 180th day preceding a primary election and must contain the signatures and legal addresses of voters equal in number to at least 2 1/2% of the total vote cast in the State for Governor at the last preceding gubernatorial election. Petitions must be submitted to the appropriate municipal registrar for certification by 5 p.m. on the 10th day before the petition must be filed in the office of the Secretary of State or, if the 10th day is a Saturday, Sunday or legal holiday, by 5 p.m. on the next day that is not a Saturday, Sunday or legal holiday. The registrar must complete the certification of the petitions and must return them to the circulators or their agents within 5 days of the date on which the petitions were submitted. If the 5th day is a Saturday, Sunday or legal holiday, then the certification must be returned on the next day that is not a Saturday, Sunday or legal holiday.

7. Convention. A party that has qualified under subsections 4 and 6 to nominate by convention must in that same year hold a state convention as prescribed by Article 3 in order to have the party designation of its candidates printed on the ballot in the general election of that year. The voter or group of voters who files the declaration of intent may perform the duties of the state committee under section 321, subsection 1 for the party's initial convention.

Sec. 8. 21-A MRS §304-A is enacted to read:

§ 304-A. Change of status from a minor party to a major party

A qualified minor party may not become a major party unless the party files a declaration of intent under section 302, subsection 1, regardless of the actual number of votes for Governor cast in the preceding gubernatorial election.

Sec. 9. 21-A MRSA §304-B is enacted to read:

§ 304-B. Change of status from a major party to a minor party

A qualified major party may not petition to become a minor party unless that major party is disqualified under section 304.

Sec. 10. 21-A MRSA §321, sub-§3 is enacted to read:

3. Proceedings at a minor party convention. The minor party convention must do the following:

- A. Elect a secretary and a chair of the convention in that order;
- B. Adopt a platform for the next general election;
- C. Nominate the number of presidential electors to which the State is entitled in the year of a presidential election;
- D. Determine the size of the state committee and the method of its election;
- E. Nominate candidates who have qualified for nomination by convention and have chosen to seek the nomination of the minor party; and
- F. Adopt rules to govern the congressional district, county and municipal committee structure of the minor party.

Sec. 11. 21-A MRSA §331, as amended by PL 1997, c. 436, §47, is further amended to read:

§ 331. Method of nomination

1. Nomination by primary election. A major party's nomination of a candidate for any federal, state or county office ~~shall~~must be made by primary election, as provided in this Article.

1-A. Nomination by convention. A minor party's nomination of a candidate for any federal, state or county office must be made by nominating convention, as provided in Article 3.

2. Exceptions. This Article does not apply to:

- A. Nominations for presidential electors;
- B. Nominations to fill vacancies under subchapter HH3; and
- C. Nominations by petition under subchapter H2.

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

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

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

Sec. 12. 21-A MRSA §333, as enacted by PL 1985, c. 161, §6, is amended to read:

§ 333. Qualification for county office

A candidate for any county office must be a resident of and a voter in the electoral division ~~heth~~e candidate seeks to represent on the date established for filing ~~primarynominating~~ petitions in the year ~~heth~~e candidate seeks election. ~~He~~The candidate must maintain a voting residence in that electoral division during ~~his~~the candidate's term of office.

Sec. 13. 21-A MRSA §334, as amended by PL 1995, c. 459, §21, is further amended to read:

§ 334. Qualification of candidate for primary nomination or nomination by convention

A candidate for nomination by primary election or nominating convention must file a ~~primarynominating~~ 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. The registrar in the candidate's municipality of residence must certify to that fact upon the petition.~~ A candidate for nomination does not have to be enrolled in the party or parties named in the petition.

Sec. 14. 21-A MRSA §335, as amended by PL 2005, c. 453, §§47 and 48, is further amended to read:

§ 335. Petition requirements

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

1. Content. A ~~primarynominating~~ petition must contain the name of only one candidate, ~~his~~that candidate's place of residence, ~~his~~that candidate's party, the qualified major or minor party or parties for which that candidate seeks the nomination, the office sought and electoral division. A ~~primarynominating~~ 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 or 2 county commissioners are to be nominated, the primarynominating petition must contain the term of office sought by the candidate.

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

3. How signed. The voter must personally sign ~~his~~the voter's name in such a manner as to satisfy the registrar of ~~his~~the voter's municipality that ~~he~~the voter is a registered voter and enrolled in the party named on the petition. Either the voter or the circulator of the petition must print the voter's name.

4. Residence. The voter or the circulator of the petition must write or print the voter's residence address and municipality of registration. Ditto marks are permitted for residence address and municipality of registration only.

5. Number of signatures required. Petitions must be signed by the following numbers of voters, notwithstanding the number of parties for which the candidate seeks the nomination:

- A. For candidate for Governor, at least 2,000 and not more than 3,000 voters;
- B. For a candidate for United States Senator, at least 2,000 and not more than 3,000 voters;
- C. For a candidate for Representative to Congress, at least 1,000 and not more than 1,500 voters;
- D. For a candidate for county office other than county commissioner, at least 150 and not more than 200 voters;
- E. For a candidate for county commissioner, at least 50 and not more than 75 voters;
- F. For a candidate for State Senator, at least 100 and not more than 150 voters; and
- G. For a candidate for State Representative, at least 25 and not more than 40 voters.

6. When signed. A petition may not be signed before January 1st of the election year in which it is to be used.

7. Certification of petition. A primarynominating petition ~~shall~~must be verified and certified as follows.

A. The circulator of a primarynominating petition shall verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that all of the signatures to the petition were made in the circulator's presence 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.

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.

8. When filed. A primarynominating 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.

9. Petition or names void. A primarynominating petition ~~which~~that does not meet the requirements of this section is void. If a voter or a circulator fails to comply with this section in signing or printing the voter's name and address, that voter's name may not be counted, but the petition is otherwise valid.

Sec. 15. 21-A MRSA §339-A is enacted to read:

§ 339-A. Time and nature of nominating convention

A minor party shall hold a nominating convention no sooner than June 1st of each general election year and no later than the Saturday following the 2nd Tuesday of June of each general election year. Candidates are eligible for nomination by minor party convention only if the candidate listed the minor party on nominating petitions under section 335 and collected the requisite number of signatures under section 335.

Sec. 16. 21-A MRSA §355, sub-§3, as amended by PL 1999, c. 645, §2, is further amended to read:

3. Qualifications declared. ~~The consent must contain a declaration of the candidate's place of residence and the fact that the candidate has not been enrolled in a party qualified to participate in a primary or general election after March 1st of that election year and that the candidate meets the qualifications of the office the candidate seeks. 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 356, any part of the declaration is found to be false by the Secretary of State, the consent and the nomination petition are void.~~

~~A. Candidates for the office of county charter commission need not verify by oath or affirmation that they are not enrolled in a party.~~

Sec. 17. 21-A MRSA §365, sub-§5 is enacted to read:

5. For a minor party. A minor party's state committee makes choices for all offices in which a vacancy has been declared.

Sec. 18. 21-A MRSA §601, sub-§2, ¶B, as amended by PL 2001, c. 310, §29, is further amended to read:

B. The ballot must contain the name, without any title, and place of residence of each candidate, arranged alphabetically with the last name first, under the proper office designation. The initial letters of the last names of the candidates must be printed directly beneath each other in a vertical line. The

names of candidates for any one office may not be split into more than one column regardless of number. ~~The~~For the primary election, the name of each candidate may be printed on the ballot in only one space. For the general election ballot, ~~the party or political designation of each candidate must be printed with each candidate's~~the name of a candidate nominated by more than one party must be printed once for each party. The party or political designation may be abbreviated.

Sec. 19. 21-A MRSA §696, sub-§4, as amended by PL 2005, c. 404, §5, is further amended to read:

4. Determination of choice possible. If a voter marks the voter's ballot in a manner that differs from the instructions at the top of the ballot but in such a manner that it is possible to determine the voter's choice, then the vote for the office or question concerned must be counted. If a voter marks the same name for the same office multiple times with different party labels, the voter's vote must be counted as if the voter cast one vote for the candidate selected on a ballot space without a party label.

SUMMARY

This bill authorizes cross-endorsement, which is the practice of multiple parties or political designations nominating the same candidate. It eliminates the current rules requiring enrollment in a political party in order to be a candidate for that party's nomination. It also requires the Secretary of State to list on the ballot a candidate nominated by multiple parties or political designations once for each party or political designation. The bill also prevents overvotes, which is when a voter marks the same candidate's name multiple times, from invalidating the vote.

This bill also authorizes the formation of official minor political parties and establishes the requirement for formation, continuation and ballot access.