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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO ELECTIONS -- PRIMARIES FOR ELECTION OF DELEGATES TO
NATIONAL CONVENTIONS AND FOR PRESIDENTIAL PREFERENCE

Introduced By: Senators Lawson, Miller, Murray, DiMario, Mack, F. Lombardi, Cano,
Ujifusa, Lauria, and Acosta

Date Introduced: February 16, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 17-12.1-2 of the General Laws in Chapter 17-12.1 entitled "Primaries
2 for Election of Delegates to National Conventions and for Presidential Preference" is hereby
3 amended to read as follows:

4 **17-12.1-2. Number of delegates to be elected — Method of election.**

5 (a) At each primary there shall be elected for each congressional district of this state the
6 number of delegates and alternates that shall be determined by the national committee of the party
7 and certified to the secretary of state not later than the first Tuesday in January preceding the
8 primary by the state committee of the party. The method of election of candidates for delegate shall
9 be in accordance with party rules certified to the secretary of state by the chairperson of the state
10 committee on or before the first Tuesday in January of each year a primary is to be held pursuant
11 to this chapter.

12 (b) The presidential preference primary shall be conducted using ranked choice voting as
13 set forth in this chapter. The notice provided by the chairperson of a state committee under
14 subsection (a) of this section shall indicate whether the party prefers the presidential preference
15 primary tabulation to occur on a winner-take-all basis in accordance with § 17-12.1-17(b) or on a
16 proportional basis in accordance with § 17-12.1-17(c). The notice shall further indicate how
17 delegates are to be allocated and on what geographical basis delegates are to be allocated, whether
18 statewide, by congressional district, by other geographic unit, or a combination thereof. If the party

1 requests tabulation occur on a proportional basis, the chairperson shall indicate what the applicable
2 threshold for receiving delegates in the presidential preference primary will be. If a party fails to
3 specify how to tabulate ballots, the presidential preference primary election for that party shall be
4 tabulated on a statewide winner-take-all basis in accordance with § 17-12.1-17(b).

5 (c) Nothing in this chapter shall be construed to preclude a political party from allocating
6 delegates according to its own rules for allocating such delegates.

7 SECTION 2. Section 17-12.1-4 of the General Laws in Chapter 17-12.1 entitled "Primaries
8 for Election of Delegates to National Conventions and for Presidential Preference" is hereby
9 amended to read as follows:

10 **17-12.1-4. Presidential candidates.**

11 (a) Any person seeking the endorsement of a national political party for which a primary
12 is being held shall, during the ninety-fourth (94th) through and including the ninety-sixth (96th)
13 day preceding the presidential preference primary being held, provide written notification to the
14 secretary of state of his or her intention to run in the presidential preference primary. When the
15 deadline falls on a Saturday, said written notification may be filed with the secretary of state on
16 that Saturday until noon (12:00) p.m. The notification shall include the candidate's name and
17 address and a statement affirming their eligibility, under the laws and Constitution of the United
18 States, to serve, if elected, in the office of President of the United States. The notification shall also
19 include the name and contact information of the designee authorized by the presidential candidate
20 to act in his/her stead in Rhode Island.

21 (b)(1) Upon receipt of the notification referred to in subsection (a) of this section, the
22 secretary of state shall, by six o'clock (6:00) p.m. on the same day, prepare petition papers for
23 candidates who are eligible to serve in the office of President of the United States, clearly marked
24 with the candidate's name, party designation, and the office the candidate seeks; provided,
25 however, that for notifications filed on a Saturday deadline by noon (12:00) p.m., petition papers
26 shall be prepared by two o'clock (2:00) p.m. on that Saturday.

27 (2) The petition papers of a candidate for president shall be signed, in the aggregate, by at
28 least one thousand (1,000) eligible voters and shall be submitted on or before four o'clock (4:00)
29 p.m. in the afternoon of the eighty-second (82nd) day before the presidential preference primary to
30 the local board of the city or town where the signers appear to be voters, and the petition papers
31 shall be checked, processed, and certified to the secretary of state by the local boards before four
32 o'clock (4:00) p.m. in the afternoon of the sixty-ninth (69th) day before the presidential preference
33 primary. When nomination papers have been duly certified by the appropriate local boards of
34 canvassers, they shall be conclusively presumed to be valid, unless written objections to them are

1 made as to the eligibility of the candidate or the sufficiency of the nomination papers or the
2 signatures on them. All objections shall be filed with the state board of elections by four o'clock
3 (4:00) p.m. on the next business day after the last day fixed for local boards to file nomination
4 papers with the secretary of state. Nothing in this section shall be construed to prevent the secretary
5 of state from disqualifying a candidate based on the determination of the secretary of state that the
6 nomination papers or the signatures on them are invalid or insufficient.

7 (c) The decision of the state board shall be rendered not later than four o'clock (4:00) p.m.
8 on the sixty-third (63rd) day before the presidential preference primary and shall immediately be
9 certified by the state board to the secretary of state.

10 (d) If any candidate for presidential nomination does not qualify for ballot placement, the
11 names of delegates committed to this disqualified presidential candidate, who are otherwise
12 qualified, shall appear on the ballot in accordance with party rules.

13 (e) If any candidate whose name has been announced as a presidential nominee does not
14 thereafter wish his or her name to appear on the ballot, the candidate shall, at least sixty-three (63)
15 days prior to the date for the primary, file an affidavit with the secretary of state stating his or her
16 name may not be placed on the ballot and the secretary of state shall not place that candidate's
17 name on the ballot. Said affidavit must be signed by the presidential candidate or his or her designee
18 on file with the office of the secretary of state. Names of delegates committed to ~~the withdrawn~~
19 such candidate, who are otherwise qualified, shall appear on the ballot in accordance with party
20 rules.

21 (f) If any candidate whose name already appears on the ballot as a presidential nominee
22 chooses to withdraw from consideration prior to the date established for the presidential preference
23 primary election, that candidate shall file a signed letter of withdrawal with their national and state
24 party chairpersons in compliance with any applicable party rules that may exist governing the
25 timing, procedures, or substance of candidate withdrawals or suspensions. The candidate further
26 shall file an affidavit with the secretary of state stating that the candidate is a withdrawn candidate
27 and wishes to be treated as an inactive candidate in the tabulation conducted under § 17-12.1-17.
28 Such affidavit must be signed by the presidential candidate or the candidates designee on file with
29 the office of the secretary of state.

30 SECTION 3. Section 17-12.1-8 of the General Laws in Chapter 17-12.1 entitled "Primaries
31 for Election of Delegates to National Conventions and for Presidential Preference" is hereby
32 amended to read as follows:

33 **17-12.1-8. Presidential preference primary.**

34 (a) On the same date and at the same time as the election of delegates to national

1 conventions, as provided in § 17-12.1-1, there shall be held a presidential preference primary for
2 each political party at which each party voter shall have one vote with the opportunity to ~~vote~~ rank
3 his or her ~~preference preferences~~ for ~~his or her choice for one person~~ which candidate should ~~to~~ be
4 the ~~candidate~~ presidential nominee of his or her party for president of the United States. The voter
5 shall also have the ability to rank “uncommitted” among his or her preferences.

6 (b) The secretary of state shall place on the ballot the name of all persons qualified as
7 candidates for presidential nominee as provided in § 17-12.1-4, and who have not filed with the
8 secretary of state the affidavit as provided in § 17-12.1-4(e). The lists of candidates for delegate
9 shall be placed on a separate portion of the ballot and shall be grouped by and clearly indicate
10 which candidate for presidential nominee approved the individual’s candidacy, ~~and shall list under~~
11 ~~the name of each candidate for presidential nominee, arranged by lot, the names of all candidates~~
12 ~~for delegates to a national convention who submitted the approval of the candidate for presidential~~
13 ~~nominee~~ as set forth in § 17-12.1-7. All other candidates for delegates to a national convention shall
14 be listed on the ballot, arranged by lot, as uncommitted, unless otherwise specified in party rules.

15 SECTION 4. Section 17-12.1-9 of the General Laws in Chapter 17-12.1 entitled "Primaries
16 for Election of Delegates to National Conventions and for Presidential Preference" is hereby
17 amended to read as follows:

18 **17-12.1-9. Voting for nominees and delegates — Designation of winning delegates.**

19 (a) Each voter shall ~~vote~~ rank, within that voter’s party presidential preference primary, his
20 or her preferences among ~~for~~ the presidential nominees ~~of that voter’s choice~~ and ~~or~~ may express
21 among those preferences a ranking ~~that voter’s choice for no nominee in a space provided and~~
22 designated “uncommitted.”

23 (b) Each voter shall vote, within that voter's party delegate election primary ~~and~~ for any or
24 all of the number of elected delegates allocated to Rhode Island by the respective national
25 committees.

26 (c) The number of delegates and the designation of the winning delegates shall be
27 determined pursuant to the rules of the political party filed with the secretary of state as provided
28 by this chapter.

29 SECTION 5. Section 17-12.1-11 of the General Laws in Chapter 17-12.1 entitled
30 "Primaries for Election of Delegates to National Conventions and for Presidential Preference" is
31 hereby amended to read as follows:

32 **17-12.1-11. Form of ballot.**

33 (a) The order on the ballot, subject to final determination of any objections filed with the
34 board of elections and the removal of said individual(s) by the secretary of state post-lot, of the

1 presidential nominees and delegates and the uncommitted delegates shall be chosen by lot under
2 the direction of the secretary of state.

3 (b) Individuals committed to a particular presidential candidate or uncommitted shall
4 appear in a manner so that the candidates for delegates shall be readily identified with the
5 presidential candidate to whom they are committed or shall appear in a manner that clearly shows
6 they are uncommitted.

7 (c) No person shall appear on the ballot as a candidate for delegate more than once.

8 (d) There shall be nothing on the ballot to indicate or suggest any political party
9 endorsement.

10 (e) The secretary of state shall prepare and arrange the ballot for use in the primaries
11 authorized in this title, which shall include, as to the candidates for delegates, the person to whom
12 the candidates are committed and any other information and instruction that the secretary of state
13 shall deem necessary.

14 (f) The ballot shall allow voters to rank five (5) qualified presidential candidates in order
15 of choice.

16 SECTION 6. Section 17-12.1-12 of the General Laws in Chapter 17-12.1 entitled
17 "Primaries for Election of Delegates to National Conventions and for Presidential Preference" is
18 hereby amended to read as follows:

19 **17-12.1-12. Definitions.**

20 For the purposes of this chapter the following terms have the meaning indicated as follows:

21 (1) "Active candidate" means any candidate who has not been eliminated during tabulation
22 or is not a withdrawn candidate within the meaning of § 17-12.1-12(12).

23 (2) "Highest-ranked active candidate" means the active candidate assigned to a higher
24 ranking than any other active candidates on a ballot.

25 (3) "Inactive ballot" is a ballot that does not count for any candidate for any of the reasons
26 given in § 17-12.1-17(e).

27 (4) "Overvote" means an instance in which a voter has ranked more than one candidate at
28 the same ranking order.

29 ~~(5)~~ (5) "Political party" is defined as provided in § 17-1-2(9).

30 (6) "Ranking order" means the number available to be assigned by a voter to a candidate
31 to express the voter's choice for that candidate. The number "1" is the highest ranking order,
32 followed by "2" and then "3" and so on.

33 (7) "Round" means an instance of the sequence of voting tabulation beginning with § 17-
34 12.1-17(b)(1) for winner-take-all selection of delegates or § 17-12.1-17(c)(1) for proportional

1 selection of delegates.

2 (8) "Skipped ranking" means a voter has left a ranking order unassigned but ranks a
3 candidate at a subsequent ranking order.

4 (9) "Threshold for receiving delegates" means the amount of votes necessary for a
5 presidential candidate to receive delegates in a presidential preference primary election conducted
6 in accordance with § 17-12.1-17(c).

7 ~~(2)~~(10) "Uncommitted" means a candidate for delegate not approved by, obligated, or
8 committed to any particular presidential contender.

9 (11) "Undervote" means a ballot that does not contain any candidates at any ranking in a
10 particular contest.

11 (12) "Withdrawn candidate" means any candidate who filed all requisite letters or
12 affidavits required under § 17-12.1-4(f).

13 SECTION 7. Section 17-12.1-14 of the General Laws in Chapter 17-12.1 entitled
14 "Primaries for Election of Delegates to National Conventions and for Presidential Preference" is
15 hereby amended to read as follows:

16 **17-12.1-14. Recount.**

17 (a) Upon application, the state board of elections shall conduct a recount for a presidential
18 candidate ~~or delegate for a winning candidate~~ when there is a two hundred (200) or less vote
19 difference in the final round of tabulation between the losing candidate ~~or delegate~~ and the winner.

20 (b) Upon application, the state board of elections shall conduct a recount for a delegate for
21 a winning presidential candidate when there is a two hundred (200) or less vote difference between
22 the losing delegate and the winner.

23 (c) A recount under subsection (a) or (b) of this section ~~Said recount~~ shall be conducted by
24 re-reading the programmed memory device or devices and comparing the results and totals obtained
25 at such recount with the results and totals obtained on election night.

26 ~~(b)~~(d) The state board shall have the authority to adopt rules and regulations to implement
27 and administer the provisions of this section.

28 SECTION 8. Chapter 17-12.1 of the General Laws entitled "Primaries for Election of
29 Delegates to National Conventions and for Presidential Preference" is hereby amended by adding
30 thereto the following section:

31 **17-12.1-17. Ranked choice voting tabulation.**

32 (a) In any state-administered presidential preference primary election for President of the
33 United States conducted using ranked choice voting, each ballot shall count as one vote for the
34 highest-ranked active candidate on that ballot. Withdrawn candidates shall be treated the same as

1 candidates who have been eliminated from tabulation. A ranking of “uncommitted” shall be treated
2 the same as a ranking containing a candidate. Each round proceeds sequentially as described in
3 subsection (b) or (c) of this section, as applicable.

4 (b) If a party awards delegates to a single candidate on a winner-take-all basis, tabulation
5 shall proceed as follows:

6 (1) If two (2) or fewer active candidates remain, then tabulation is complete. Otherwise,
7 tabulation proceeds to subsection (b)(2) of this section.

8 (2) The active candidate with the fewest votes is eliminated, votes for the eliminated
9 candidate are transferred to each ballot’s next-ranked active candidate, and a new round begins
10 with subsection (b)(1) of this section.

11 (c) If a party awards delegates to multiple candidates on a proportional basis, tabulation
12 shall proceed as follows:

13 (1) If the vote total of every active candidate is above the party’s threshold for receiving
14 delegates, then tabulation is complete. Otherwise, tabulation proceeds to subsection (c)(2) of this
15 section.

16 (2) The active candidate with the fewest votes is eliminated, votes for the eliminated
17 candidate are transferred to each ballot’s next-ranked active candidate, and a new round begins
18 with subsection (c)(1) of this section.

19 (d) If two (2) or more candidates are tied with the fewest votes and tabulation cannot
20 continue until the candidate with the fewest votes is eliminated, then the candidate to be eliminated
21 shall be determined by lot. Election officials may resolve prospective ties between candidates prior
22 to tabulation after all votes are cast. The result of any tie resolution must be recorded and reused in
23 the event of a recount.

24 (e) An inactive ballot does not count for any candidate. A ballot is inactive if any of the
25 following is true:

26 (1) It does not contain any active candidates and is not an undervote.

27 (2) It has reached an overvote.

28 (3) It has reached two (2) consecutive skipped rankings.

29 (f) An undervote does not count as an active or inactive ballot in any round of tabulation.

30 (g) When the secretary of state certifies the results of the election, the secretary shall certify
31 the results of each round tabulated pursuant to subsection (b) or (c) of this section, as applicable,
32 along with any other information required under § 17-12.1-18, to the state chairperson and the
33 national committee of each political party that had at least one candidate on the state-administered
34 presidential primary election ballot to allocate national delegate votes in accordance with the party's

1 state and national rules.

2 **17-12.1-18. Results reporting.**

3 (a) The secretary of state shall promulgate rules or guidance to facilitate the release of
4 unofficial preliminary round-by-round results and unofficial preliminary cast vote records as soon
5 as feasible after the polls close and at regular intervals thereafter until the counting of ballots is
6 complete.

7 (1) Unofficial preliminary round-by-round results shall be clearly labeled as preliminary
8 and, to the extent feasible, shall include the percent of ballots counted to date.

9 (2) Unofficial preliminary cast vote records shall be:

10 (i) Clearly labeled as preliminary and, to the extent feasible, shall include the percent of
11 ballots counted to date;

12 (ii) Published online in a publicly accessible, electronic format; and

13 (iii) Identifiable by precinct to the extent such identification can be provided consistent
14 with the need to maintain voter privacy.

15 (3) In adopting rules or guidance under this subsection, the secretary of state shall consult
16 with and allow for input from local election officials, and national and state party representatives.

17 (b) In addition to any other information required by law to be reported with final results,
18 the secretary of state shall make public:

19 (1) The total number of votes each candidate received in each round of the official
20 tabulation, including votes for withdrawn candidates;

21 (2) The total number of ballots that became inactive in each round because they did not
22 contain any active candidates, reached an overvote, or reached two (2) consecutive skipped
23 rankings, reported as separate figures; and

24 (3) The cast vote records in a publicly accessible, electronic format and in a manner
25 identifiable by precinct to the extent such identification can be provided consistent with the need
26 to maintain voter privacy.

27 (c) The secretary of state shall provide round-by-round results for each party on the
28 geographical basis or bases identified in the notice submitted by the chairperson of that party's state
29 committee pursuant to § 17-12.1-2.

30 **17-12.1-19. Rulemaking authority.**

31 The secretary of state shall have the authority to promulgate whatever rules, regulations,
32 and procedures are necessary to implement this chapter.

33 SECTION 9. Nothing in this act shall be construed or implemented in a manner that would
34 effectively foreclose the use of or substantially increase the cost of adopting a ballot structure or

1 voting system compatible with fusion voting. For the purposes of this act, fusion voting is an
2 electoral system that allows two (2) or more political parties to indicate their endorsement of a
3 single candidate for office on the ballot.

4 SECTION 10. If any provision of this act, or the application of any provision of this act to
5 any person or circumstance, is held to be unconstitutional, the remainder of this act and the
6 application of its provisions to any person or circumstance shall not be affected by the holding.

7 SECTION 11. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO ELECTIONS -- PRIMARIES FOR ELECTION OF DELEGATES TO
NATIONAL CONVENTIONS AND FOR PRESIDENTIAL PREFERENCE

- 1 This act would establish the ranked choice voting for Rhode Island Presidential primaries
- 2 and provides for new sections on ranked choice voting tabulation and results reporting.
- 3 This act would take effect upon passage.

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