

MAINE STATE LEGISLATURE

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Referendums - Amendments
C art 9 sec. 14

XXXXXXXXXXXXXXXX

April 7, 1976

Honorable Robert Farley
House of Representatives
State House
Augusta, Maine 04333

Dear Bob:

This responds to your oral request of yesterday as to whether the Legislature, without referendum, may amend the provisions of P. & S.L., 1973, c. 79, relating to authorization for the York County jail. The specific problem relates to the statement in § 1 of Chapter 79 that the authorized jail "be located on county-owned property adjacent to the present county jail." It is our understanding that it is now proposed to locate the jail at another location. We believe that Chapter 79 can only be amended in the same manner in which it was enacted, that is by referendum.

The general rule of law is that absent constitutional prohibitions, statutes enacted by referendum may be amended or repealed. Jones v. Maine State Highway Commission, 238 A.2d 226 (Me., 1968). However, this rule would not necessarily apply in situations as Chapter 79 where the statute itself could only be enacted by referendum as is the case with bond issues (Cf. Opinion of the Justices, 159 Me. 209 (1963)). It is the view of this office that if the initial statute could only be adopted by referendum, that amendments to that statute can only be adopted by referendum.

We would recommend, therefore, that if amendment of Chapter 79 is desired, legislation directed to amending the statute by referendum be developed.

You also asked whether, if a referendum would be required, the referendum could be conducted in connection with the June primary election. Bond issues may be approved at a general or special election, Maine Constitution, Art. 9, § 14. However, there being only approximately 60 days before the primary election, there may be problems in properly preparing the matter for election at that time. To do so would require enactment of emergency legislation

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authorizing the amendment and specifying that the referendum occur
in connection with the primary election.

Sincerely,

DONALD G. ALEXANDER
Deputy Attorney General

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