

# MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

January 21, 1977

William Brown  
Committee on State Government  
State House, Room 427  
Augusta, Maine

Dear Mr. Brown:

This responds to your request for an opinion on the question of whether the provisions of L.D. 2 represent an unconstitutional delegation of legislative powers and prerogatives. We answer your question in the negative. There is no constitutional problem with the constitutional amendment proposed by L.D. 2.

DISCUSSION:

Were L.D. 2 a proposed amendment to legislation, the question of unconstitutional delegation of legislative powers, both the appropriation power and the taxing power, would have to be addressed. However, as L.D. 2 proposes a constitutional amendment, the problem becomes solely one of inconsistency with other provisions of the Constitution. The key provisions to be addressed in this regard are Article III relating to separation of powers; Article IV, Part Third, Section 9 relating to raising of revenue; and Article IX, Section 9 relating to legislative control of the power of taxation.

The proposed constitutional amendment clearly effects the Legislature's prerogatives in these areas. However, it is not directly inconsistent with any of those provisions, or any other provision of the Constitution. L.D. 2 amends the Constitution, as its provisions may be read together with existing constitutional provisions to reserve to the Legislature its prerogatives relating to fund raising and assessment of taxes with this particular reservation relating to retirement funds.

Sincerely,

  
DONALD G. ALEXANDER  
Deputy Attorney General

DGA/ec  
cc: Honorable Louis Jalbert