

# MAINE STATE LEGISLATURE

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*In the case of the petition for placement on ballot  
Referendum Petition  
No. 1007 2/77 3rd 89 10118*

*Don*

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AUGUSTA, MAINE 04333

June 7, 1977

Honorable Stephen T. Hughes  
House of Representatives  
State House  
Augusta, Maine

Dear Representative Hughes:

We are responding to your oral request for an opinion of this office on several questions concerning the application of the referendum and initiative provisions found in Article IV, Part Third, Sections 17 and 18 of the Constitution of Maine. It is our understanding that your questions are the result of legislation which has already been enacted by the 108th Legislature and petition drives which are being undertaken regarding this legislation. Your questions are set forth and answered individually below.

Question 1: "What is the meaning of the term 'regular session' as it is used in Article IV, Part Third, Section 18 of the Constitution, in light of the fact that the Legislature will now meet in two annual sessions rather than the previous biennial sessions?"

The answer to your first question is that it is clear from the constitutional amendment which provides for annual sessions of the Legislature that each session is considered a "regular session" for purposes of Article IV, Part Third, Section 18. The amendment to Article IV, Part Third, Section 1, which provides for annual sessions, specifically designates them as the "first regular session" and "second regular session" of any given Legislature. The section goes on to state that legislation initiated pursuant to the provisions of Article IV, Part Third, Section 18 is among those limited matters which will be part of the business of the "second regular session." Therefore, it is clear that either session shall be a "regular session" for purposes of initiating such legislation.

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Question 2: "If petitions are presented which would subject enacted legislation to referendum and at the same time petitions are presented to initiate legislation on the same topic, which is not enacted by the legislature, would it be possible to place both questions on the same ballot?"

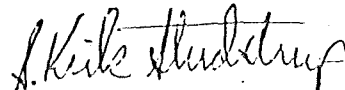
The answer to your question is generally affirmative, though a more specific answer would depend upon the individual facts of an actual situation of this type. There is no provision of sections 17 or 18 which would prevent questions properly raised simultaneously under these sections from being presented on the same ballot, and a review of the legislative history of the constitutional amendment which added both sections does not indicate that the question was even considered by the Legislature in 1907 when the constitutional resolve was passed.

Since your question indicates that the two matters concern the same topic or the same subject matter, it may well be that they would have to appear on the same ballot. The initiated legislation provisions of Article IV, Part Third, Section 18 require that unless the Legislature enacts an initiated measure without changes, the measure ". . . shall be submitted to the electors together with any amended form, substitute, or recommendation of the Legislature, and in such manner that the people can choose between the competing measures or reject both." If the two legislative measures are such that one is considered a "substitute" for the other, then both measures would have to be on the same ballot. For further discussion of this point, see the opinion of the Attorney General dated March 24, 1977, a copy of which is attached for your information.

Questions 3 and 4: Your third and fourth questions concern hypothetical situations which might result from consideration of referendum and initiative measures. The answers to these questions would depend upon the specific facts of the case, and we do not have sufficient facts upon which to give a categorical opinion. An attempt to answer these hypothetical questions before there is some factual basis for them would be very speculative. Therefore, we respectfully decline to answer these questions at this time.

Please call upon us whenever we may give assistance.

Sincerely,



S. KIRK STUDSTRUP  
Assistant Attorney General