

# MAINE STATE LEGISLATURE

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*Maine Veterans Home  
Referendum Legislation: Amendments after passage  
Bond Issues: Amendments  
Me. Const Art 9 sec 14*

JOSEPH E. BRENNAN  
ATTORNEY GENERAL



RICHARD S. COHEN  
JOHN M. R. PATERSON  
DONALD G. ALEXANDER  
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

July 18, 1977

To: Otto W. Siebert, State Budget Officer  
From: S. Kirk Studstrup, Assistant Attorney General  
Subject: Possibility of Amending L.D. 939

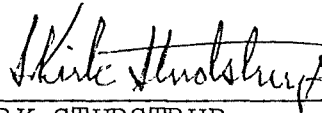
I am responding to your oral request for an opinion regarding the potential for future amendment of L.D. 939, An Act to Authorize Bond Issue in the Amount of \$2,100,000 to establish a Maine Veterans Home. As the title of the bill indicates, it would authorize a bond issue in a substantial amount and requires approval by the voters at a referendum pursuant to Article IX, Section 14 of the Constitution of Maine. In addition to the provisions with regard to the bond issue, which are found in section 2 of the bill, there would also be enacted a new Chapter 28 to Title 37-A M.R.S.A. to provide for establishment of the home, a board of trustees, admission and charges to members, and other substantive provisions concerning administration of the veterans' home, found in section 1 of the bill. Since the bill will be presented to the voters for approval, you have asked whether this legislation or any part of it could be subsequently amended by legislation without subsequent approval by referendum. The answer to your question is that provisions concerning administration of the home could be amended without subsequent referendum, while amendment of provisions concerning the bond issue would require such referendum approval.

This office has previously stated its opinion that the general rule of law is that absent constitutional prohibitions, statutes enacted by referendum may be amended or repealed. See: Opinions of the Attorney General dated April 7 and April 26, 1976, Jones v. Maine State Highway Commission, 238 A.2d 226 (Me., 1968). On the other hand, this general rule may not apply in cases where the initial statute could not have been enacted except by referendum, as in the case with bond issues. Opinion of the Attorney General, April 7, 1976; Opinion of the Justices, 159 Me. 209 (1963). In our April 7, 1976, opinion, we stated, "It is the view of this office that if the initial statute could only be adopted by referendum, then amendments to that statute can only be adopted by referendum."

Otto W. Siebert, State Budget Officer  
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LD 939 is somewhat unique in that it contains elements of both types of legislation. The provisions of section 1 are general in nature having to do with establishment and administration of a veterans' home, and could be enacted without a referendum if funding were to come from the General Fund or other source. However, in L.D. 939 the effectiveness of these provisions is made contingent upon voter approval of the bond issue found in section 2. Article IX, Section 14 of the Constitution indicates that ratification by referendum is necessary for the amounts and purposes of a bond issue; it does not require ratification of legislation administering the "purpose" for which the funding is to be approved.

In light of the foregoing, it is our opinion that if the Governor approves L.D. 939 and it is ratified by the voters at referendum, any subsequent amendment to the provisions of section 2 of the L.D., particularly any change in the purpose for which funds so raised are to be used, would require another referendum approval. However, if the Legislature should later decide to amend the provisions of section 1 of the L.D., such as changing the number of trustees, qualifications for the administrator, or other change of this sort, these amendments could be made without referendum ratification.



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S. KIRK STUDSTRUP  
Assistant Attorney General

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