

MAINE STATE LEGISLATURE

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*Bond Issues Amendments
Mr. Court Cut #9 rec. 14*

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December 8, 1977

Honorable Sherry F. Huber
Representative
430 Blackstrap Road
Falmouth, Maine 04105

Dear Representative Huber:

We are responding to your oral request for an opinion of this office with regard to legislative amendment of legislation subsequent to its approval at referendum. Specifically, your question concerns P. & S.L. 1977, c. 72, which is an act to authorize a bond issue pursuant to Article IX, Section 14, of the Constitution of Maine. Section 2 of the Private and Special Law would authorize the Treasurer of State to issue the bonds in question, and includes the following limitation:

"These bonds shall not run for a longer period than 10 years from the date of the original issue thereof."

Assuming that this bond issue is approved at the referendum to be held on December 5, 1977, your question is whether the Legislature could then amend the limitation quoted above to limit the life of any bonds to 5 years rather than 10, without submission of this amendment to another referendum. The answer to your question is negative.

We are enclosing a copy of an opinion of this office dated July 18, 1977, which discusses the question of amending bond issue legislation after referendum. The heart of that opinion is found in a quotation from another opinion of this office dated April 7, 1976, contained therein, which states:

"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."

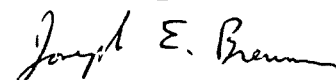
We reaffirm these prior opinions insofar as they are applicable to your question.

We recognize that the amendment which you propose may have the effect of increasing the marketability of the bonds issued and thereby support the legislative intent, if the State Treasurer would otherwise issue the bonds for a duration of longer than 5 years. However, the provisions of Article IX, Section 14, are mandatory and there is no discretionary right to vary the procedure set forth therein. Opinion of the Justices, 261 A.2d 250, 253 (Me., 1970). Furthermore, the procedures of Article IX, Section 14, are unique in that enactment of the bond legislation must be by 2/3 of both Houses, rather than the normal majority, before the matter is submitted for ratification by referendum. If the legislation is approved at referendum, ". . . the Legislature may authorize the issuance of bonds on behalf of the State at such times and in such amounts and for such purposes as approved by such action; . . ." The foregoing portion of Article IX, Section 14, is quite specific in requiring that the timing of the issuance of bonds is dependent upon the timing which was included in the legislation approved by referendum.

For the reasons stated above, we must conclude that an amendment to the legislation which would alter or restrict the period of time within which the bonds may be issued, would have to be enacted by a 2/3 vote of both Houses of the Legislature and be submitted to referendum.

Please continue to call on us whenever we may be of assistance.

Sincerely,


JOSEPH E. BRENNAN
Attorney General

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