

MAINE STATE LEGISLATURE

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Constitutional Amendments
Electoral Constitutional Amendments
Mr. Court Art 10 sec 4

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July 25, 1978

Honorable John L. Martin
Speaker of the House
State House
Augusta, Maine

Dear Mr. Speaker:

This responds to your request for advice as to whether amendments to the Constitution may only be voted on at biennial elections. We understand your question is prompted by press reports which raise questions as to whether the Legislature, which is scheduled to meet in regular session in 1979, may, at that session, adopt constitutional tax and/or spending limits and present such amendments to the voters in November of 1979.

We would advise that constitutional amendments relating to taxing or spending limits adopted by the Legislature in 1979 can be presented to the voters in November of 1979.

The pertinent provision of the Maine Constitution, Article X, Section 4, specifies:

"The Legislature, whenever two-thirds of both Houses shall deem it necessary, may propose amendments to this Constitution; and when any amendments shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns, and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at the next biennial meetings in the month of November, or to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators

and Representatives, on the Tuesday following the first Monday of November following the passage of said resolve, to give in their votes on the question, whether such amendment shall be made; and if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this Constitution."

The key phrase in the Constitution, for determination of this question, is its directive that elections to amend the Constitution be held: "at the next biennial meetings in the month of November, or to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives, on the Tuesday following the first Monday of November following the passage of said resolve." This provision allows a referendum to be held at the next biennial election, or, in the Legislature's discretion, on the first Tuesday after the first Monday of November in the year in which the constitutional resolve is adopted by the Legislature. Thus, a constitutional referendum may be held on the first Tuesday following the first Monday of any November. Such referendums are not limited to the biennial general election.

As you have noted, reports in the press have suggested that a constitutional referendum on tax or spending limits adopted in 1979 could not be called until 1980. We must emphasize that despite the press reports, this issue is absolutely free from doubt and well established by precedent in the State of Maine. In recent years, referenda to amend the Constitution have been held in 1965, 1967, 1969, 1971, 1973, and 1975. The 1975 amendments were particularly significant in abolishing the Executive Council, adopting single member districts for the House of Representatives and establishing annual sessions for the Legislature. The year 1977 was the first odd-numbered year in more than a decade where there had not been a constitutional referendum held in November. This occurred because the referendum on the uniform property tax repeal and other referendum issues was not held until December, and it was deemed inappropriate and inefficient to have two elections to deal with referenda in one year since a constitutional referendum, if it were held, would have had to occur in early November.

I hope this information is helpful.

Sincerely,

JOSEPH E. BRENNAN
Attorney General

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