

MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

October 24, 1978

SEE ALSO ATTACHED
OPINION OF 10/27/78

Honorable John L. Martin
Speaker of the House
House of Representatives
State House
Augusta, Maine 04333

Dear Mr. Speaker:

This responds to your request for an opinion as to whether Chapter 4 of the Constitutional Resolutions of 1977 could become effective prior to the date presently scheduled for the convening of the 109th Legislature. Constitutional Resolution No. 4 moves the date for convening of the new Legislature from the first Wednesday after the 1st of January following the general election to the first Wednesday of December following the general election.

We would advise that Constitutional Resolution No. 4 changing the date for convening of the Legislature to the first Wednesday in December may not become effective to require convening of the 109th Legislature on the first Wednesday of December, 1978.

The effectiveness of constitutional amendments is governed by statute. 1 M.R.S.A. § 351 specifies that, unless otherwise provided in the constitutional resolution itself, every constitutional amendment adopted by the voters shall take effect and become part of the Constitution on the first Wednesday of January following adoption.^{1/} This date, although not included in the Constitution itself, may be presumed to apply to each constitutional

^{1/} § 351 Effective date.

"Unless otherwise provided in the resolution submitting it, every constitutional amendment shall take effect and become part of the Constitution, on the first Wednesday of January following its adoption by the people."

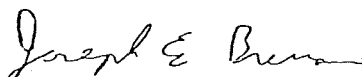
resolution where no contrary intent is expressed or implied. ^{2/}

Constitutional Resolution No. 4 does not contain with it any provision specifying an effective date. Further, there is no legislative history for Resolution No. 4 indicating any legislative intent as to the effective date. Therefore, Constitutional Resolution No. 4 is to become effective on the first Wednesday of January, 1979 (January 3, 1979). This is the date scheduled by the provisions of the Constitution, Article IV, Part Third, Section 1, for the convening of the 109th Legislature.

If Constitutional Resolution No. 4 is adopted, it would apply first to the 110th Legislature and would require convening of the 110th Legislature on the first Wednesday of December, 1980.

I hope this information is helpful.

Sincerely,



JOSEPH E. BRENNAN
Attorney General

JEB/ec

cc: Honorable James B. Longley
Honorable Joseph Sewall

2/ The procedures for approval of constitutional amendments are specified by Article X, Section 4, of the Maine Constitution. However, in Opinion of the Justices, 261 A.2d 53 (Me., 1970), the Maine Supreme Judicial Court by implication recognized that the Legislature may add certain reasonable statutory clarifications to the amendment procedures - in that case the requirement of 1 M.R.S.A. § 352 that the Governor proclaim constitutional amendments approved within 30 days after final tally of the vote adopting the amendment. Similarly 1 M.R.S.A. § 351 would appear to be a reasonable and acceptable clarification of the amendment procedures. It should be noted that the specified effective date, the first Wednesday of January, comes shortly after the end of the period that is allowed by 21 M.R.S.A. § 1092 directing the Secretary of State to submit election results to the Governor within 20 days after an election plus the 30-day period for the Governor to proclaim the result specified in 1 M.R.S.A. § 352.