

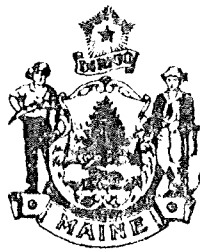
MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



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81-67

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

July 17, 1981

Rodney S. Quinn
Secretary of State
State House
Augusta, Maine 04333

Dear Secretary Quinn:

You have requested advice concerning the sufficiency of the question which you propose to place on the November ballot in order that the people may vote on L.D. 522, an initiated bill to establish a Maine Energy Commission. The question submitted for our review reads as follows:

Shall "AN ACT to Create the Maine Energy Commission" become law?

Before addressing your specific inquiry, some general observations about our respective roles in the initiative process would appear appropriate. Under the Maine Constitution, the authority to formulate initiative and referendum questions is expressly delegated to the Secretary of State.

. . . The full text of a measure submitted to a vote of the people under the provisions of the Constitution need not be printed on the official ballots, but, until otherwise provided by the Legislature, the Secretary of State shall prepare the ballots in such form as to present the questions concisely and intelligibly. Me. Const., art. IV, pt. 3, § 20.

As the above language indicates, the only guidance given the Secretary is found in the requirement that the question be concise and intelligible.

Limiting our ability to advise you is the fact that there is no Maine precedent which either interprets or applies the requirement that the question be concise and intelligible. Thus, it is unclear whether the role of the question is to explain the substance of the initiated bill or whether its role is simply to identify the general proposition for the voter in such a way that the voter will be able to determine how to express his approval or disapproval of that proposition.^{1/} Based upon the question you have submitted to us, we assume you are inclined to the latter view, and we are not aware of any legal authority which suggests that your interpretation is incorrect.

The factors recited above lead us to believe that the formulation of initiative questions must be viewed as a matter largely

^{1/} The conciseness requirement militates against the notion that the question should explain the substance of the initiated bill. For example, section 1 of L.D. 522 recites five different purposes of the bill, one of which is further divided into three components. To incorporate all of these purposes into a "concise" question would be almost impossible.

We should also note that the Legislature has established another vehicle expressly designed to explain the substance of initiative questions. Title 1 M.R.S.A. § 353 requires the Attorney General to ". . . prepare a brief explanatory statement which shall fairly describe the intent and content of each. . . statewide referendum that may be presented to the people. . . ." This explanatory statement must be published in each daily newspaper in the State. The existence of § 353 strongly suggests that the Legislature does not perceive the initiative question as the means whereby the substance of the bill can be feasibly explained.

within the discretion of the Secretary of State. For that reason, we think we should find an initiative question legally insufficient only if it seems clear that it does not comply with the requirements of conciseness and intelligibility.

With respect to L.D. 522, we have examined the initiated bill, and in accordance with the observations set forth above, we believe your formulation of the question is a proper exercise of your discretion.

Sincerely,

Stephen L. Diamond

STEPHEN L. DIAMOND
Deputy Attorney General

SLD/ec