

MAINE STATE LEGISLATURE

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

January 7, 1982

Honorable Judy Kany
House of Representatives
State House
Augusta, Maine 04333

Re: Effect of Amendment to Me. Const., art. IV, pt. 3, § 18(2).

Dear Representative Kany:

You have posed three questions on the effect of the recent amendment to Me. Const., art. IV, pt. 3, § 18(2). Constitutional Resolutions of 1981, c. 1 added language to Section 18(2) requiring that signatures on initiative petitions be no more than one year old in order to be valid. You have asked what the effective date of this provision is, whether it applies to signatures gathered prior to the effective date and whether initiative petitions addressed to the second session of the 110th Legislature may be submitted to the Secretary of State before that session convenes.

The effective date of Chapter 1 is November 23, 1981, the day when the Governor proclaimed that it had received a majority vote. Although the Maine Constitution does not establish when amendments will become effective, the matter is addressed in 1 M.R.S.A. § 351 which provides as follows:

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.

[Emphasis supplied].

The resolution which submitted the amendment in question contains an effective date provision which reads as follows:

. . . [I]f it appears that a majority of the legal votes are in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment shall become part of the Constitution on the date of the proclamation

Constitutional Resolutions of 1981, c.1.

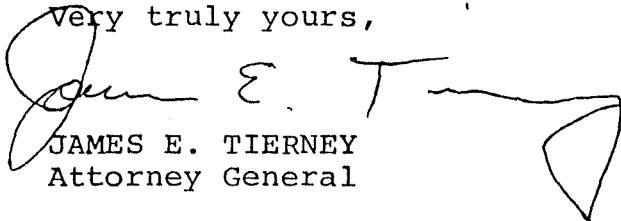
Pursuant to § 351 and the terms of the resolution, the amendment in question became effective on November 23, 1981.

Your second question is whether the amended language of section 18(2) applies to signatures gathered before the section's effective date. Again, the language of the resolution addresses this issue. It states that the amendment "shall apply only to initiatives begun after the effective date of this resolution." Since any signatures gathered prior to the effective date of the amendment must be for initiatives begun before the amendment's effective date, the provisions of the amendment do not apply to them. This result is consistent with the general rule of interpretation that constitutional provisions will be applied prospectively unless there is some specific indication that they were intended to be retroactive. See I W. Carrington, Cooley's Constitutional Limitation, 136-137 (8th ed. 1927).

Your final question is whether initiative petitions may be submitted to the Secretary of State before the Legislature to which they are addressed convenes. We answer that question affirmatively. There is nothing in the Maine statutes or our constitution which prevents such early filing. Article IV, pt. 3, § 18(1) of the Maine Constitution provides that initiative petitions are to be filed "on or before" the date specified. Thus, we conclude that initiative petitions addressed to a given legislative session may be filed with the Secretary of State before the convening of that session.

We hope these answers address your concerns. If you have any further questions, do not hesitate to contact this office.

Very truly yours,


JAMES E. TIERNEY
Attorney General

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