

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



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

March 22, 1982

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

Dear Representative Kany:

This will respond to your inquiry as to whether L.D. 2030 would, if enacted, constitute a competing measure with L.D. 1989.^{1/} In prior opinions of this Office, we have explained that legislation becomes a competing measure when it is inconsistent with an initiated bill so that the two cannot stand together.^{2/} See Op. Att'y. Gen'l., 81-56; Op. Att'y. Gen'l., 79-87. Applying this test to the problem you have raised, it is our opinion that enactment of L.D. 2030 would not result in a competing measure.

The initiated bill would prohibit the operation of nuclear fission thermal power plants after November 2, 1987. By contrast, L.D. 2030 would provide a mechanism for the decommissioning of, and for the disposal of fuel at, such plants. While L.D. 2030 seems to reflect an assumption that nuclear power plants will be operating after November 2, 1987, it by no means requires that result. In fact, the bill

^{1/} L.D. 2030 is entitled "AN ACT to Ensure Funding for the Eventual Decommissioning of and Spent Fuel Disposal at Any Nuclear Power Plant." L.D. 1989 is an initiated bill, entitled "AN ACT to End the Use of Nuclear Power for Processing Electricity in Five Years."

^{2/} We have also expressed the view that the Legislature may specifically designate legislation as a competing measure even if it is not inconsistent with the initiated bill. That situation clearly does not exist here.

contains provisions to deal with what it describes as the "premature closing" of these facilities. Thus, we see no reason why the initiated measure and L.D. 2030 could not stand together if both were enacted.^{3/}

I hope this information is helpful. If this Office can be of further assistance, please do not hesitate to call on us.

Sincerely,

Stephen L. Diamond

STEPHEN L. DIAMOND
Deputy Attorney General

SLD/ec

^{3/} To avoid a possible future question, we would note that the same conclusion applies to L.D. 1757, "AN ACT to Ensure Funding for the Eventual Decommissioning of Any Nuclear Power Plant."