

# MAINE STATE LEGISLATURE

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ANDREW KETTERER  
ATTORNEY GENERAL

STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
6 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0006

Telephone: (207) 626-8800  
FAX: (207) 287-3145

REGIONAL OFFICES:

84 HARLOW ST., 2ND FLOOR  
BANGOR, MAINE 04401  
TEL: (207) 941-3070  
FAX: (207) 941-3075

59 PREBLE STREET  
PORTLAND, MAINE 04101-3014  
TEL: (207) 822-0260  
FAX: (207) 822-0259

August 30, 1996

The Honorable Jeffrey H. Butland  
President, Maine Senate  
3 State House Station  
Augusta, ME 04333-0003

Dear President Butland:

I am writing in response to your request of August 26, 1996, in which you ask whether the August 13th opinion of this office, concluding that a simple majority is sufficient to enact a competing measure to initiated legislation, would extend to Section 19 of L.D. 1892, "An Act to Implement the Compact for Maine's Forests." Section 19 describes the procedures by which the Act is to be submitted to the voters at the next general election in November as a competing measure with the initiated bill, L.D. 1819, "An Act to Promote Forest Rehabilitation and Eliminate Clearcutting." For the reasons which follow, it is the opinion of this Department that because the terms of Section 19 mirror the existing requirements applicable to competing measures contained in the Maine Constitution and statutes, there is no provision in Section 19 which requires adoption by a two thirds vote.

Section 19 contains six provisions. First, it states that the Act is to be submitted to the voters at this November's general election together with the initiated bill. This requirement is already established by Article IV, Part Third, Section 18(2) of the Maine Constitution, which provides in pertinent part:

The [initiated] measure thus proposed, unless enacted without change by the Legislature at the session at which it is presented, shall be submitted to the electors together with any amended form, substitute, or recommendation of the Legislature, and in such manner that the people can choose between the competing measures or reject both.

Second, Section 19 requires the State's municipal officers to notify the inhabitants of their respective cities, towns, and plantations to meet in the manner prescribed for holding a statewide election to vote on acceptance or rejection of the Act. This provision simply refers to the established statutory requirements governing the announcing of elections contained in 21-A M.R.S.A. §§ 621-623 (1993 & Supp. 1995).

Third, the last part of the first paragraph of Section 19 prescribes the question to be placed on the ballot for approval or disapproval of the competing measure, which is to read as follows: "Do you favor enactment of the Compact for Maine's Forests to promote sustainable forest management practices throughout the State?" The Maine Constitution provides that an initiated measure is to be submitted "to the electors together with any amended form, substitute or recommendation of the Legislature" (Article 4, Part Third, Section 18(2)), and further provides (Section 20) that "until otherwise provided by the Legislature, the Secretary of State shall prepare the ballots in such form as to present the question or questions concisely and intelligibly." Specification of the wording of the question relating to the competing measure is consistent with these constitutional requirements as well as the statutory provisions governing the wording of the ballot found in 21-A M.R.S.A. § 906(6) (Supp. 1995). Clearly a question reflecting the competing measure must be prepared for inclusion on the ballot, and while § 906(6)(B) makes the Secretary of State responsible for the wording of the ballot question with respect to an initiative, it does not make the Secretary responsible for wording the question with respect to any competing measure. See § 906(6)(D).

Fourth, Section 19 provides that the voters shall vote on the question by ballot, designating their choice by a cross or check mark below the word "Yes" or "No." This requirement already exists in 21-A M.R.S.A. § 906(1) (Supp. 1995).

Fifth, Section 19 requires that the ballots be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. This is simply a general description of the detailed procedures for the counting of ballots by election officials and the preparation of returns to the Secretary of State set forth in 21-A M.R.S.A. §§ 695, 711 (1993).

Finally, Section 19 provides that the Governor shall review the returns, and if it appears that a majority of the legal votes are cast in favor of the Act, the Governor "shall proclaim that fact without delay, and the Act takes effect January 1, 1997." The substance of these requirements is contained in Article IV, Part Third, Section 19 of the Maine Constitution, which provides in pertinent part:

Any measure referred to the people and approved by a majority of the votes given thereon shall, unless a later date is specified in said measure, take effect and become a law in 30 days after the Governor has made public proclamation of the result of the vote on said measure, which he shall do within 10 days after the vote thereon has been canvassed and determined[.]

Thus the substance of each of the requirements contained in Section 19 is already controlling law, by provision of either the Constitution or state statute. Accordingly, there is no term of Section 19 which must take effect less than 90 days after enactment of L.D. 1892 so as to require emergency legislation and a two thirds vote.

I hope the foregoing answers your question.

Sincerely,

  
ANDREW KETTERER  
Attorney General