

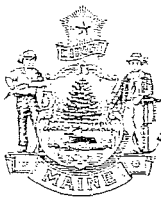
# MAINE STATE LEGISLATURE

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July 23, 2002

Honorable Albion D. Goodwin  
120 Hersey Road  
Pembroke, ME 04666

Re: Request for advice regarding convening of Legislature

Dear Representative Goodwin:

Thank you for your letter requesting answers to specific questions related to the procedure for the Maine Legislature to convene itself in special session.

The relevant Constitutional provision, Article 4, Part Third, Section 1, states: "The Legislature may convene at such other times on the call of the President of the Senate and Speaker of the House, with the consent of a majority of the members of the Legislature of each political party, all members of the Legislature having been first polled." We have searched for other guidance in Maine statutes and case law, but have found none. An Opinion of the Justices of the Maine Supreme Judicial Court that is not on point, but that provides some insight on the history of the provision, is attached to this letter.

Given the absence of other authority, the Constitutional provision stands on its own. The Legislature, in its sole discretion, may determine precisely how to proceed. As this office has advised in the past, the legislative power is measured by limitation and not by grant. Therefore, we must look to the limitations on legislative power provided by the Constitutional language at issue to answer the questions you have posed.

You asked, "Who calls the Legislature back into session after the majority polled show they want to convene?" Article 4, Part Third, Section 1 of the Maine Constitution makes clear that the power to call the Legislature to special session rests with the President of the Senate and Speaker of the House.

You asked, "Who does the polling? Do the Speaker and President do the poll, or can an individual legislator do the poll?" While there is no express legal guidance on this, the fact that the power to call the Legislature to special session ultimately rests with the presiding officers suggests that the polling must be done by a person or entity whose results the presiding officers agree to accept.

You asked, "If an individual legislator does the polling, whom do they report their findings to?" Again, the fact that the power to call the Legislature into session ultimately rests with the presiding officers suggests that any polling results must be reported to the presiding officers.

I hope you find this information helpful. Please feel free to contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Steven Rowe". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

G. Steven Rowe  
Attorney General