

# MAINE STATE LEGISLATURE

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April 9, 2013

Senator Dawn Hill  
Representative Margaret R. Rotundo  
Chairs, Joint Standing Committee on Appropriations and Financial Affairs  
Room 228, State House  
Maine State Legislature  
2 State House Station  
Augusta, Maine 04333

Re: LD 239, An Act To Improve the Return to the State on the Sale of Spirits and  
To Provide a Source of Payment for Maine's Hospitals

Dear Senator Hill and Representative Rotundo:

I was unaware until this morning that the Committee wished our Office to provide information regarding the Governor's Liquor Operation Revenue Bonds bill. The individual who worked most closely on this issue is not available today and I am required to be in other committees this afternoon. However, let me simply summarize the view of this Office as follows:

LD 239 as originally drafted raised questions under Art. V, Part Third, Section 5 of the Maine Constitution (added in 1976), which prohibits "the use of proceeds from the sale of bonds to fund current expenditures," as well as under Art. IX, Section 14, which limits the amount of general obligation debt that may be authorized without public referendum to \$2,000,000.

This Office has worked with the Treasurer and with the Governor's legal counsel, with input from private bond counsel, to assist in redrafting the bill in its present form. See draft attached to testimony of Michael Cianchette of March 11, 2013.

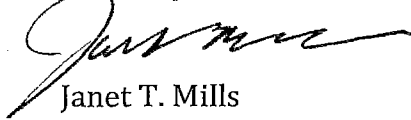
Although this legislation raises novel legal issues that, to our knowledge, have not been litigated previously, I believe the bill in its revised form is defensible against a constitutional challenge.

For background on the constitutional issues surrounding similar measures, please see, e.g., Opinion of the Attorney General of April 23, 2009; Allen v. Quinn, 459 A.2d 1098 (Me.1983); Opinion of the Justices, 146 Me. 183, 79 A.2d 753 (1951); and Farris v. Goss, 60 A.2d 908 (Me.1948).

This Office takes no position on the wisdom of or the public policy implications of raising revenue in the manner proposed in this legislation.

Thank you.

Sincerely,



Janet T. Mills  
Attorney General

Cc: Michael Cianchette, Governor's Office  
Senate President Justin L. Alford  
Speaker Mark W. Eves  
Senate Majority Leader Seth A. Goodall  
Assistant Senate Majority Leader Troy D. Jackson  
Senate Republican Leader Michael D. Thibodeau  
Assistant Senate Republican Leader Roger J. Katz  
House Majority Leader Seth A. Berry  
House Majority Whip, Jeff M. McCabe  
House Republican Leader Kenneth W. Fredette  
Assistant House Republican Leader Alexander R. Willette