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October 1, 1975

H. Sawin Millett, Jr., Commissioner

Educational and Cultural Services

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Interpretation of 20 M.R.S.A. § 225

Your memorandum of July 24, 1975, concerning the above-stated subject, requested our opinion as to the legislative intent of 20 M.R.S.A. § 225, particularly the last sentence of subsection 2, paragraph A, which reads:

"When requested by 10% of the number of voters voting for the gubernatorial candidates at the last state-wide election in the municipalities comprising the district, the directors shall call a district meeting, placing before the voters the specific school construction article which has been requested by the petitioners."

The specific nature of your question, in light of the factual material which you sent with the memorandum, is whether the Legislature intended that this provision could be used to attempt to rescind previous voter authorization as well as State Board of Education approval for issuance of bonds to finance school construction.

There is no legislative history for the section in question which clearly indicates a specific legislative intent. However, as an aid to statutory construction, it is presumed that the Legislature has knowledge of prior judicial determinations and interpretations on the same and related matters when it enacts legislation, and that the legislation reflects these determinations and interpretations. In matter of John S. Goff, Inc., 141 F.Supp. 862 (S.D. Me., 1955), State v. Crommett, 116 A.2d 614 (Me., 1955). The courts of a number of States, including Maine, have taken the position that the voters of towns and school districts have a general right to rescind previous authorization to expend taxes or issue bonds, so long as third parties have not acquired vested rights in the interval. Anno: "Rescission of vote authorizing school district or other municipal bond issue, expenditure, or tax" - 68 A.L.R.2d 1041; Getchell v. Inhabitants of Wells, 55 Me. 433 (1867). Other courts have taken the position that there is no right of rescission in the voters, unless there is legislation conferring that right. However, as noted, at least in one instance the Supreme Judicial Court has chosen the former position. Using this aid to construction and the judicial determinations, one can presume that the Legislature intended the initiative procedures of 20 M.R.S.A. § 225 to include rescission action by the voters.

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The foregoing interpretation is strengthened by the policy that a remedial statute should be liberally construed to give the widest effect to its remedial purpose. People's Sav. Bank v. Chesley, 26 A.2d 632, 635 (Me., 1942); 3 Sutherland, Statutory Construction, 29 § 60.01 (1974). The amendment to 20 M.R.S.A. § 225 contained in P.L. 1973, ch. 571, § 20-A gives initiative rights to the district voters, allowing them to compel the directors to put school construction matters to a vote. It is, therefore, a remedial measure. A liberal construction of the amendment would include in the words "specific school construction article" petitions for a rescission vote on a construction bond authorization, so long as no bonds had been issued, contracts signed, or rights vested.

The answer to your question, then, is that ⁱⁿ the absence of revealing statutory history, application of aids to statutory construction leads to the conclusion that the initiative procedure of the last sentence of subsection 2(A) of section 225 was intended, or at least may be used, for rescission purposes with the proviso that no rights under the prior authorization have already vested.

Your second question was whether the petition included in the material accompanying your memorandum was properly drafted. The form for a petition used to record and present a "request" under 20 M.R.S.A. § 225, 2, A, is not specified in the statute. Since the statutory duty of the directors is mandatory--they "shall call a district meeting" if 10% of the voters in the district so request--the petition would be sufficient if it recites the specific school construction article to be placed before the voters and contains the signatures of the required 10% of the voters, as specified. The explanatory material in the first paragraph of the petition is not strictly necessary to have an effective petition. The copy of the petition you sent appears to be sufficient as to form and challenges to its validity would probably be directed more at the examination and certification of signatures.

S. KIRK STUDSTRUP
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