

MAINE STATE LEGISLATURE

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April 2, 1976

Honorable Rodney Quinn
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Quinn:

This responds to your oral request of March 29, 1976. At that time you posed the question of whether additional legislation or amendment to the Constitution would be needed for a town undertaking development in an urban renewal development to provide support for reconstruction of facilities by non-profit organizations, such as the American Legion, through the device of industrial revenue bonds.

It is the opinion of this office that a statutory but not a constitutional amendment would be necessary to accomplish the above purpose.

The constitutional provision applying to industrial revenue bonds is Article VIII, Part 2nd, Section 2 which relates only to "industrial and manufacturing enterprises". Clearly a facility of a non-profit organization such as the American Legion is not an industrial or manufacturing enterprise. Therefore, bonding authority would not be provided under Article VIII, Part 2nd, Section 2.

However, not all revenue obligation securities of the municipality need be issued pursuant to this constitutional provision. The Municipal, Industrial and Recreational Obligations Act, 30 M.R.S.A. §5325, et seq. provides for issuance of municipal revenue obligation securities for certain specified purposes including industrial-commercial pollution control, recreational and private parking.

Revenue obligation securities issued pursuant to this law have been held to be neither debts or liabilities of the municipality within the municipal debt limit of Article IX, Section 15 of the Maine Constitution, nor otherwise within the terms of Article VIII, Part 2nd, Section II (formerly Article IX, Section 1A) Northeast Shoe Company v. Industrial and Recreational Finance Approval Board, 223 A.2d 423 (Me. 1966). The terms industrial-commercial, residential, etc. are defined in 30 M.R.S.A. § 5326. None of the terms would appear to include a

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facility for a non-profit organization, although it would be possible that certain elements of the non-profit organization project might fall within the definition of a recreational project, 30 M.R.S.A. § 5326-3.

To provide the support for non-profit organizations posed in your question would require an amendment to 30 M.R.S.A. § 5325 to include such projects among the purposes for which revenue obligation securities may be issued. It would also require amendment of 30 M.R.S.A. § 5326 to add a definition of those non-profit facilities which could be benefitted by the provisions of § 5325, et seq. Projects approved pursuant to this section would be subject to all the other conditions and approval requirements of the law and thus would have to be of a nature which could provide the revenue requirement to repay the bonds.

We would also note that it may be possible to provide some support for reconstruction of such facilities through amending 30 M.R.S.A. § 4810 to allow provision of support to relocated non-profit organizations for reconstruction of facilities, which support would probably be through means other than revenue bonds.

Sincerely,

DONALD G. ALEXANDER
Deputy Attorney General

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