

MAINE STATE LEGISLATURE

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October 13, 1976

Representative Kathleen Watson Goodwin
409 High Street
Bath, Maine 04530

Dear Representative Goodwin:

This responds to your request of September 20, 1976, relating to the applicability of laws requiring that candidates for office reside in their legislative districts.

There are two relevant provisions of law.

A. The Maine Constitution, Art. IV, Part First, § 4, provides:

"No person shall be a member of the House of Representatives, unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States, have arrived at the age of twenty-one years, have been a resident in this State one year; and for the three months next preceding the time of his election shall have been, and, during the period for which he is elected, shall continue to be a resident in the town or district which he represents."

B. 21 M.R.S.A. § 443 provides:

"A candidate for any federal, state or county office must be a voting resident of the electoral division he seeks to represent on the date established for filing primary petitions in the year he seeks election. He must maintain this voting residence during his term of office."

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"1. Exception. The first sentence of this section shall not apply to candidates for the House of Representatives and the State Senate."

Another relevant statute is 21 M.R.S.A. § 1, sub-§ 35, which defines the term residence as:

"That place in which a person's habitation is fixed and to which that person, whenever absent, has the intention to return."

In your case you appear to be staying temporarily at a house outside of your legislative district while continuing to maintain other attributes of residence, e.g., voting address, mailing address, home ownership, within the legislative district. Accordingly, it would appear that you retain sufficient attributes of residence within your electoral district to qualify as a resident and thus to be properly a candidate for elective office from that electoral district.

However, ultimate decision in these matters is up to the House, which, by Art. IV, Part Third, § 3, of the Constitution is the ultimate judge of the election and qualification of its members. For your interest there is enclosed another relevant opinion on this matter, dated March 26, 1976.

I hope this information is helpful to you.

Sincerely,



DONALD G. ALEXANDER
Deputy Attorney General

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