

MAINE STATE LEGISLATURE

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Municipal Support for non-profit corporations

Municipal Spending Authority

30 M.R.S.A. § 5101

MacLay T. Art 8 Pt Second § 1

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March 2, 1977

Honorable Philip C. Jackson
Senate Chambers
State House
Augusta, Maine

Dear Senator Jackson:

This letter responds to your request for an opinion of our office on two questions concerning municipal fiscal matters. The questions and our answers are stated individually below.

Your first question is:

"May municipalities raise or appropriate money to contribute to a nonprofit corporation that provides consumer action services, including processing, investigating and redressing consumer complaints and educating consumers in business practices?"

The answer to your question is generally negative with a qualification. However, it must be emphasized that our conclusion is a matter of statutory interpretation and should not be interpreted to preclude adoption of legislation to permit such expenditures. It has been decided by the Supreme Judicial Court that a municipality is a body politic and has only that authority to act which is given to it by the Legislature, as evidenced by its charter or by statute. Squires, et al. v. City of Augusta, 155 Me. 151, 160 (1959). This principle extends to appropriation of municipal funds, as was the case in the Squires decision. Statutory authority for municipal fund-raising and appropriation is found in 30 M.R.S.A. § 5101 which states:

"A municipality may raise or appropriate money for the purposes specified in sections 5102 to 5108."

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We have reviewed these latter sections and find no authorization for the type of expenditures stated in your question, though these provisions do cover a broad range of permissible expenditure items. Therefore, the answer to your question is negative as a matter of statutory authority.

The Squires decision states that the other source of authority for municipal expenditures may be the municipal charters. Charter provisions differ from municipality to municipality and, therefore, it is possible that the expenditures which your question contemplates may be permissible for an individual municipality. Of course, this would be a separate question for each municipality. It should be noted that under the municipal home rule provision of the Constitution of Maine (Article VIII, Part Second, Section 1) municipalities have the power to amend their charters in the manner set forth in 30 M.R.S.A. §§ 1912, et seq., without legislative approval. It should also be noted that any individual expenditure by a municipality is subject to the general rule that it must be for a public purpose. Cf. Art. I, § 21, Constitution of Maine.

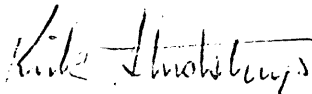
Your second question is:

"If a municipality may raise or appropriate money for this purpose, may it also restrict or limit the use or expenditure of the contributions by the corporation receiving them?"

Assuming that a given municipality has the charter authority to make the appropriations contemplated by your question, and that such expenditures are for a municipal purpose, it is our opinion that a municipality may place limitations or restrictions upon the use of such funds. Grants of this sort are essentially the same as any grant by a governmental body and often are made subject to contractual limitations, conditions and assurances.

Please continue to call on us whenever we may assist you.

Sincerely,


S. KIRK STUDSTRUP
Assistant Attorney General

SKS:mfe