

MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

June 29, 1977

Honorable Donald Carter
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Carter:

This responds to your request for an opinion on the question of whether the provision of L.D. 640 relating to binding arbitration for municipal fire departments violate the provisions of Article IX, Section 9, of the Maine Constitution. We understand a prompt response is requested.

L.D. 640 provides for arbitration in the case of labor disputes involving municipal fire departments and includes a specification that the decision of the arbitrators "shall be final and binding upon the parties and upon the appropriate legislative body."

Article IX, Section 9, provides that:

"The Legislature shall never, in any manner, spend or surrender the power of taxation."

We do not believe the provisions of L.D. 640 are inconsistent with this constitutional provision. Basically, L.D. 640 specifies that a certain statutorily authorized body, a board of arbitration, may reach a decision which has tax implications and which may become binding upon a municipality, without the participation of the general electorate or other appropriate legislative body of the municipality.

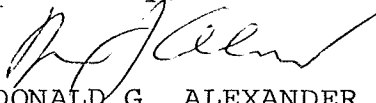
In the past, in other areas, the Legislature has approved statutes which authorize other bodies to reach decisions which have tax impacts upon municipalities. For example, where authorized by

Hon. Donald Carter
June 29, 1977
Page 2

statute and in accordance with the provisions of such an authorization, municipal officers may compromise or abate taxes due a municipality. Cf. Inhabitants of the Town of Franklin v. Waldo Lumber Co., 120 Me. 1 (1929) holding that local taxes could not be abated or compromised except where authorized by statute. Further, the Legislature may pass tax exemptions which authorize individuals, in taking advantage of these exemptions, to reduce the municipal tax liability, cf. Greaves v. Houlton Water Co., 143 Me. 207 (1948).

Thus, on the basis of the limited research which we have been able to do on this question, we believe that the provisions of L.D. 640 would not be inconsistent with the provisions of Article IX, Section 9, of the Maine Constitution. We would note, however, that because of the need to complete this opinion, we have not been able to do extensive research on this matter. Accordingly, this opinion is issued, but qualified.

Sincerely,


DONALD G. ALEXANDER
Deputy Attorney General

DGA:jg
cc: Hon. L. Jalbert