

# MAINE STATE LEGISLATURE

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DEPUTY ATTORNEYS GENERAL

STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333  
September 27, 1977

Honorable Bennett D. Katz  
27 Westwood Road  
Augusta, Maine 04330

Dear Senator Katz:

Attached herewith pursuant to your request is a retyped copy of the third page of our opinion to you dated September 12. This copy is with the corrections.

Sincerely,

DONALD G. ALEXANDER  
Deputy Attorney General

DGA/ec  
Enc.

Senator Katz  
Representative Najarian  
September 12, 1977  
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corrected  
copy attached

municipality may expend funds in the manner questioned; we can only advise that it may be possible for a municipality to adopt a charter provision authorizing such expenditure.

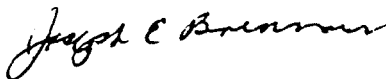
Third, some cases disapproving expenditures also involve advocacy expenditures by the level of government conducting the election. (e.g., expenditures by a state in a state election or expenditures by a municipality in a municipal election.) In such cases, basic questions of fairness and interference with the electoral process by the government conducting the election are raised. Here we do not have that question as the matter involves expenditures by a municipality in a state-wide election.

Thus, it is our view that municipalities are not barred by state law from expending funds to advocate positions regarding a state-wide referendum. Municipalities may only take such actions, however, if the expenditures are made pursuant to a local charter provision specifically authorizing the expenditure. Further, municipalities would be limited to using locally raised and locally controlled funds. This opinion does not address the question of use of state raised or state controlled funds or Federal funds.

In closing, we would note again that this matter involves many complicated issues and our brief research has disclosed some disagreement among precedent in various states. Based on the limited research we have been able to do, and our general understanding of the law, including the Maine home rule provision which has not yet been subject to judicial interpretation, we have given this advice recognizing that you need the advice in a fairly short period of time. Municipalities, in deciding to take action should seek the advice of their own counsel regarding both the status of the municipal charter and the question of whether advocacy expenditures, if any, may be appropriated by the particular municipality.

I hope this information is helpful to you.

Sincerely,



JOSEPH E. BRENNAN  
Attorney General

JEB/ec