

# MAINE STATE LEGISLATURE

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*County Charter Submission 5/16/78*  
*30 M.R.S.A. § 1552*  
*30 M.R.S.A. § 1551*

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March 8, 1978

Representative Donald H. Burns  
State House  
Augusta, Maine

Dear Representative Burns:

In response to your oral request for answers to your questions of March 6, 1978, Attorney General Brennan has asked me to review the matters involved.

Your first question was what procedures should an individual follow to have his or her name placed on the ballot for the election of "voter members" to county charter commission. 30 M.R.S.A. § 1552 provides, in part:

Voter members shall be elected in the same manner as county officers, and shall be elected by district if the county officers are so elected, except that they shall be elected without party designation.

30 M.R.S.A. § 1502 defines "county officers" as county commissioners or the officers exercising legislative power under a charter.

The nomination process for a county commissioner is the process that one who seeks election to a charter commission should follow. That is, the candidate must circulate petitions, obtain between 150 and 200 certified signatures, and return the petition to the county clerk. The county clerk, upon receipt of the petition, reviews it for facial defects and either accepts or rejects it. The time constraints for the circulation and the submission of these candidate petitions must be taken from 30 M.R.S.A. § 1551, sub-§ 5. Certainly the candidate petitions would not be circulated prior to the receipt by the county officers of a certificate or final determination of sufficiency of the initiative petition. The deadline for the submission of the candidate petitions should be set by the county officers so as to allow all candidates a reasonable time in which

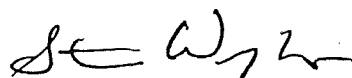
to garner the necessary signatures.

Your second question is under whose auspices, i.e., the Secretary of State's or the county officers', is the election for membership to the charter commission held. 30 M.R.S.A. § 1552, sub-§ 1, A 2d sentence, states: "Election of voter members may be held at the same election as the referendum to the charter commission, but shall be held within 60 days of such referendum election." 30 M.R.S.A. § 1551, sub-§ 5 provides, in part ". . . the county officers shall by order submit the question for establishment of a charter commission to the voters. . . ." As the county officers can order the time of the election, the apparent intent of this law is that the election of charter members be conducted under their auspices. It should be noted, though, that 30 M.R.S.A. § 1554 requires that the Secretary of State prepare and furnish ballots to each city, town and plantation within the county for submission to the voters of questions relating to charter revision, adoption, or amendment. The Secretary of State's responsibilities do not, however, run back to the elections for the submission to the voters of the question of establishment of a charter commission not to the election of voter members to the charter commission.

Your third question was may county officials serve in the charter commission. As you are probably aware, 30 M.R.S.A. § 1552, sub-§ 1, B, provides that one of the three appointive members of the charter commission may be a county officer. Your question, I believe, is whether a county official is prohibited from running for one of the six elective positions on the charter commission. The answer is no. First 30 M.R.S.A. § 51 does not specifically denote membership on a charter commission as an incompatible office. Secondly, because one of the appointive members may be a county officer, there is an apparent legislative expression within this statute that there is no inherent incompatibility between the two offices. Therefore, it is our opinion that a county officer, meeting the other qualifications for election to the charter commission, is not prohibited from serving the county in these two capacities.

If you have additional questions with regard to this matter, please contact me.

Very truly yours,



STEVEN WRIGHT

Assistant Attorney General