

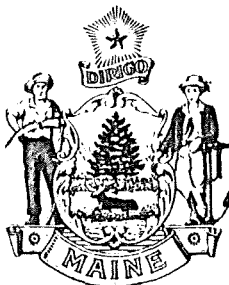
MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

February 7, 1980

Honorable Michael Pearson
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Pearson:

This is in response to your request for an opinion as to whether, under 21 M.R.S.A. § 361(1), municipal officers may require the municipal committee of a political party to pay rent for the use of a public building to hold a caucus. We are of the opinion that municipal officers may not require the payment of rent for this purpose.

Title 21 M.R.S.A. § 361(1) sets out the obligation of municipalities to provide space for caucuses in the following language:

. . . At the request of the municipal committee of a political party, municipal or town officers shall provide available space in a public building for a caucus.

By the use of the word "shall," the Legislature made it clear that a municipality is mandated to provide available space for a political caucus. Under § 361(1), the only precondition is that there be a request from the municipal committee of the political party.^{1/}

^{1/} Availability of space might also be said to be a precondition. Thus, if a municipality did not have the necessary facilities, it obviously could not be expected to comply with the requirement. See Legislative Record, 106th Leg., at 1689 (remarks of Representative Hancock).

Where the Legislature has so clearly expressed its intent, we do not believe the statute can be read to authorize a municipality to impose additional preconditions, such as the payment of rent.

While limited, the legislative debate on § 361(1) unequivocally supports our interpretation of the statutory language. During the course of that debate, Representative Hancock explained the section as follows:

. . . , there is a provision in one of the amendments that would compel any municipality on the request of a political party to allow them to use municipal facilities for their caucus. We have had occasion - and this occurs to both parties - sometimes when there is a little bit of a conflict and it costs a political party money to hire a building or a room. This would eliminate that deficit in the party's budget, whichever budget it is.

Legislative Record, 106th
Leg., at 1688.

Representative Hancock's explanation is revealing in two respects. First, municipalities are compelled to allow the use of their facilities for a caucus. Second, the purpose of the legislation was to save political parties the expense of having "to hire a building or a room." Thus, nothing could more directly frustrate the intent of the Legislature than for a municipality to charge rent for the space.

I hope this information is helpful. Please feel free to call on us if we can be of any further service.

Sincerely,

Stephen L. Diamond

STEPHEN L. DIAMOND
Deputy Attorney General

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