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80-51

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

February 29, 1980

Honorable James K. McMahon
House of Representatives
Box 46
State House
Augusta, Maine 04333

Dear Representative McMahon:

You have requested this Office to interpret 30 M.R.S.A. § 2061(4), which reads, in pertinent part, as follows:

4. Referendum questions. By order of the municipal officers or on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town's last gubernatorial election, but in no case less than 10, the municipal officers shall require that a particular article be placed in the next ballot printed, or shall call a special town meeting for its consideration.

30 M.R.S.A. § 2061(4)

The specific issue presented is whether, when a petition to place an article before a town meeting is filed under this section, the municipal officers have the option of placing the article on the next ballot printed or calling a special town meeting, or whether they are controlled by a specific request stated in the petition for one of these methods of considering the referred question.^{1/}

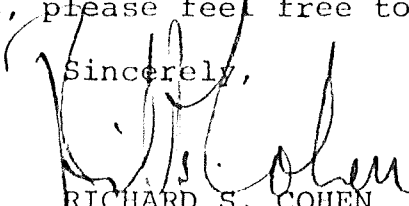
^{1/} Because we are somewhat unclear as to the scope of your opinion request, we should note that we think it is beyond the power of the municipal officers, under § 2061(4), to submit the referred question to a vote at the town meeting by some mode other than a secret ballot. Section 2061 as a whole, which is entitled "Secret Ballot," and the language of sub-§ 4 in particular, seem plainly to require that all elections under § 2061 must be by secret ballot.

It is our opinion that a specific request by the petitioners for one of the alternative methods of voting is not binding on the municipal officers. The plain language of 30 M.R.S.A. § 2061(4) indicates that, where a referendum petition is placed before the municipal officers, they have the option of placing it on the next ballot printed or before a special town meeting.^{2/} We see nothing in sub-§ 4 or in § 2061 as a whole indicating that the petition itself may state a request for either one of these modes of review. The only language contained in sub-§ 4 which relates to the content of the petition merely refers to the filing requirements set out in sub-§ 3 of § 2061, and nothing in that subsection is in any way helpful in answering this question.

We believe the intent of sub-§ 4 is to place discretion in the municipal officers, as persons familiar with the town meeting process and also familiar with the various issues confronting the town and their priorities, either to call a special town meeting or to place the question on the next ballot. This conclusion is consistent with a prior opinion of this office, a copy of which is attached hereto.

We hope that this information answers your question. If you have any further questions, please feel free to contact us.

Sincerely,


RICHARD S. COHEN
Attorney General

RSC/ec
Enclosure

^{2/} Our research into the legislative history of § 2061(4) reveals nothing in the record which suggests an intent contrary to that expressed by the plain language of the statute.