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June 6, 1980

Honorable Melvin A. Shute
P.O. Box 115A
School Street
Stockton Springs, Maine 04981

Dear Senator Shute:

This will respond to your letter, received by this office on May 1, 1980, in which you seek our interpretation of certain language appearing in 30 M.R.S.A. §2061(4). Section 2061 of Title 30 establishes the procedure for voting by secret ballot at a town meeting. Subsection (4) of section 2061 provides that "[b]y 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 at the 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." Section 2061(4) also requires the municipal officers to conduct a public hearing on the subject of the particular article at least 10 days prior to the voting thereon. The specific statutory language upon which your opinion request is based is found in the last sentence of the first paragraph of 30 M.R.S.A. §2061(4) and provides:

"If by town meeting vote or charter provision, a budget committee has been established to review proposed town expenditures, the recommendations of the budget committee shall be printed instead of those of the municipal officers."

In view of this language, you have asked the following questions:

- "1. In a warrant article, should the only figures listed be those recommended by the budget committee?
2. If other figures are included, along with budget committee recommendations, would these be limited to-

Selectmen proposals or 'recommendations,' or Requests by town department or provider - agencies, or
Would the provisions of item one above prevail?"

Initially, we find it necessary to point out that the phrasing of your questions may generate some confusion. Stated simply, you have asked what "figures" should appear in a town warrant article pursuant to 30 M.R.S.A. §2061. We must assume that the "figures" to which you refer are those in the "recommendations," not in the actual town article. The "recommendations" referred to in 30 M.R.S.A. §2061(4) are not intended to replace the actual language of the article itself. Thus, we interpret your questions to mean what recommendations should accompany the article which is printed in the warrant.

The language quoted above in 30 M.R.S.A. §2061(4), regarding the recommendations of the budget committee, must be read in conjunction with the paragraph which immediately follows it, which provides:

"If a particular article to be voted on by secret ballot requests an appropriation of money by the municipality, the article when printed in the warrant and on the ballot shall be accompanied by a recommendation of the municipal officers and, if such action affects the school budget, by the school board."

The above-quoted language, as well as the provision concerning the budget committee quoted earlier, was added to 30 M.R.S.A. §2061(4) by P.L. 1973, c.408. Chapter 408 originated as L.D. 1704 (S.P.563) being "An Act Relating to Petition for Articles on Municipal Ballots and Warrants." As originally drafted, L.D. 1704 would have added a paragraph at the end of section 2061(4) which was substantially similar to what was eventually enacted and which is quoted above.

1. L.D. 1704 would have amended 30 M.R.S.A. §2061(4) by adding the following paragraph:

"If such particular article being placed on the next ballot printed or warrant of a special meeting requests raising, appropriating or borrowing of money by the municipality, it shall be accompanied by a recommendation of the municipal officers, or the school board where such action affects the school budget."

In the original bill, there was no provision for a budget committee. The bill was referred to the Committee On Election Laws which issued an "ought to pass" report in a new draft, L.D. 1929 (S.P. 616). In the new draft of the bill, L.D. 1929, the Committee added the provision regarding the recommendations of the budget committee. L.D. 1929 was eventually enacted as Chapter 408 of the Public Laws of 1973. The "Statement of Fact" accompanying L.D. 1929 is instructive as to the legislative intent underlying the bill. It provided:

"This bill requires that whenever an article is placed on the next ballot printed or warrant of a special meeting by the petition method stipulated in section 2061 and said article requires raising, appropriating or borrowing of money, it shall also be accompanied by a recommendation by the municipal officers, the school board or the budget committee."

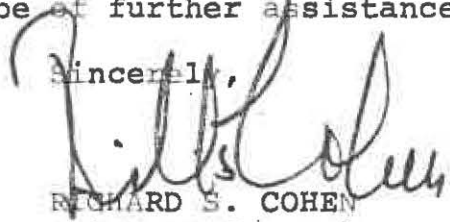
Thus, it is apparent that the last two sentences of 30 M.R.S.A. §2061(4) were intended to be read together. When an article has been placed on the town warrant and ballot pursuant to 30 M.R.S.A. §2061(4) and requests an appropriation of money, subsection (4) of section 2061 requires that the recommendations of the municipal officers accompany the article as printed on the warrant and ballot. In the event that a town has established a budget committee, section 2061(4) further requires that the recommendations of the budget committee accompany the article "instead of those of the municipal officers." (emphasis added).

Returning to your original question concerning what recommendations should accompany an article in a town warrant and ballot pursuant to 30 M.R.S.A. §2061, it is our conclusion that where a town has established a budget committee, in accordance with a town meeting vote or a charter provision, only the recommendations of that budget committee should accompany the article as printed in the warrant and ballot.² The plain language of section 2061(4) mandates that the recommendations of the budget committee "shall be printed instead of those of the municipal officers." Moreover, nothing in 30 M.R.S.A. §2061(4) authorizes individual town departments or provider agencies to have recommendations printed to accompany an article in a town warrant and ballot.

2. Of course, where the particular article requests an appropriation of money and such action affects the school budget, 30 M.R.S.A. §2061(4) requires that the recommendations of the school board accompany the article.

I hope this information is helpful. Please feel free to call upon me if I can be of further assistance.

Sincerely,



RICHARD S. COHEN
Attorney General

RSC:sm