

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



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

February 17, 1981

Honorable Porter D. Leighton
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Leighton:

This will respond to your inquiry as to whether county home rule may be established by statute.

As a general proposition, the power of the Maine Legislature "is plenary except as it may have been circumscribed expressly or inferentially by the constitution of the state or nation." Ace Tire Co. v. Municipal Officers of Waterville, Me., 302 A.2d 90, 96 (1973). In its simplest form, this means that the Legislature may enact any law for the defense and benefit of the people which is not prohibited by the Constitution of Maine or the Constitution of the United States.

Applying this principle to your inquiry, we are not aware of any constitutional provisions which would bar the Legislature from establishing by statute county home rule. In fact, the Maine Constitution does not address the form of county government, a matter which has historically been controlled by legislation. Accordingly, it is our opinion that the Maine Legislature may, under art. IV, pt. 3, § 1 of the State Constitution, provide for county home rule.^{1/}

^{1/} In the event that your question is prompted by the existence of the municipal home rule provision in the Maine Constitution, see Me. Const., art. VIII, pt. 2, § 1, we would note that the general purpose of that provision is to guarantee municipal home rule and not to authorize its creation by the Legislature.

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I hope this information is helpful.

Sincerely,

Stephen L. Diamond
STEPHEN L. DIAMOND
Deputy Attorney General

SLD/ec