

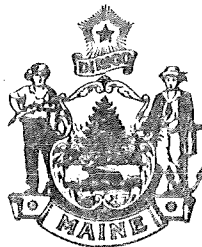
MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



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

July 9, 1981

Honorable Hilda C. Martin
20 Poplar Street
Van Buren, Maine 04785

Dear Representative Martin:

This will respond to your letter of June 24, 1981 in which you seek our advice concerning Maine's "Home Rule" statutes. 30 M.R.S.A. §§1911-1920. In particular, you have advised us of the following information: A group of citizens from the Town of Van Buren has circulated petitions and gathered signatures for the purpose of placing before the electorate the question of whether a Charter Commission should be established to revise the municipal charter. It is our understanding that these petitions have been certified as sufficient pursuant to 30 M.R.S.A. §1912(4)(C). You have also advised us that the election to decide whether a Charter Commission should be established has been scheduled for August 31, 1981.

You have also advised us that several municipal officers of the Town of Van Buren are of the opinion that the municipal charter should be amended in certain respects, rather than revised through the establishment of a Charter Commission. Apparently, the municipal officers have proposed or are about to propose amendments to the Van Buren Town Charter.

Based upon the foregoing, you have asked the following questions:

- "1. Does the Town of Van Buren, acting through its elected officials, have the right to offer an alternative measure to the voting body competing with the petitioned referendum question?
2. Is it appropriate for a competing measure to be printed on the same ballot as the original question?"¹

1. We wish to point out that you have specifically requested a prompt response to your inquiries. In view of this request, our Opinion will be somewhat conclusory in nature.

At the outset, we must acknowledge that we are not entirely certain as to what is meant by the phrases "alternative measure" or "competing measure", referred to in your letter of June 24, 1981. If the proposed amendments to the Van Buren Town Charter are intended to require the voters to choose between them and the establishment of a Charter Commission which has been proposed pursuant to the petition or initiative procedure authorized by 30 M.R.S.A. §1912(2), our opinion is that the municipal officers have no such authority. Pursuant to 30 M.R.S.A. §1912(2), (3), (4) & (5), the requisite number of voters of a municipality may petition for the establishment of a Charter Commission "for the revision of the municipal charter or for the preparation of a new municipal charter...." 30 M.R.S.A. §1912(2). Moreover, the petitioning voters are entitled to have the question of the establishment of a Charter Commission submitted to the electorate for a vote. 30 M.R.S.A. §1912(5). Nothing in the "Home Rule" statutes permits the municipal officers to interfere with the initiative process by requiring the voters to choose between the establishment of a Charter Commission and some other alternative proposal.

On the other hand, the municipal officers do possess the statutory authority to propose amendments to the municipal charter and to have those proposed amendments submitted to the electorate for a vote. 30 M.R.S.A. §§1914(1) and 1915(2). This authority to propose charter amendments arises independently of the right to petition for the establishment of a Charter Commission. The voters of a municipality remain free to vote for or against the establishment of a Charter Commission and to vote for or against any charter amendments proposed by the municipal officers. While the municipal officers may not require the voters to choose between the proposed amendments and the Charter Commission, they may submit such proposed amendments for acceptance or rejection by the voters in addition to the proposal to establish a Charter Commission. Viewed in this light, the proposed amendments offered by the municipal officers are not "alternative" to or "competing" with the question of establishing a Charter Commission. In other words, the voters may vote to establish a Charter Commission to revise the municipal charter and vote to adopt the proposed charter amendments offered by the municipal officers. In our view, a proposed charter amendment is not an "alternative" or "competing" measure with the Charter Commission question unless it requires the voters to choose between the proposals. Since we do not know the substance of the proposed charter amendments, we are in no position to determine whether, in fact, they are to be offered as an "alternative" or "competing" measure to the Charter Commission. Consequently, we cannot provide a definitive response to your first inquiry in the absence of further information.

Much of what we have said with respect to your first inquiry applies to your second question as well. Assuming that the proposed charter amendments are not offered as an "alternative" to the establishment of a Charter Commission, we see no reason why the municipal officers may not place those proposed amendments on the same ballot with the Charter Commission question, provided the municipal officers comply with the procedure (including the time limitations) specified in 30 M.R.S.A. §1914(1). Moreover, if the proposed amendments and the Charter Commission question are

placed on the same ballot, care should be taken to avoid any suggestion or impression that the voters must choose between the amendments and the Charter Commission.

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

Sincerely,

Stephen L. Diamond

STEPHEN L. DIAMOND
Deputy Attorney General

SLD/sm