

MAINE STATE LEGISLATURE

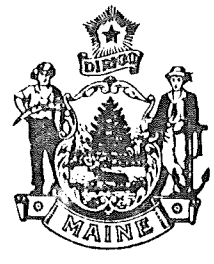
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JAMES E. TIERNEY
ATTORNEY GENERAL



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

December 3, 1981

John R. Kugler, Esquire
Assistant District Attorney
York County Courthouse
Alfred, Maine 04002

Dear Mr. Kugler:

This will respond to your letter of November 9, 1981 in which you seek our advice as to whether a violation of 21 M.R.S.A. §1416 (1981-82 Supp.) occurred in connection with the Saco Industrial Park Bond Issue. In particular, you have forwarded to us a copy of a flyer expressly advocating the promotion of the bond issue, but which does not "clearly and conspicuously state the name and address of the person who made or financed the expenditure for the communication."¹ 21 M.R.S.A. §1416 (1981-82 Supp.).

We have examined the provisions of Chapter 35-A of Title 21 (21 M.R.S.A. §§1411-1420) governing referendum campaigns, and it is our opinion that they do not apply to municipal referendum campaigns. Consequently, it is our conclusion that no violation of 21 M.R.S.A. §1416 (1981-1982 Supp.) occurred with respect to the flyer advocating passage of the Saco Industrial Park Bond Issue.

Initially, we would point out that 21 M.R.S.A. §1411 (1981-1982 Supp.) provides that Chapter 35-A "applies to campaigns for the initiation, promotion or defeat of questions." The term "campaign" is specifically defined in 21 M.R.S.A. §1412(1)(A) to (1)(E) (1981-1982 Supp.) . Nowhere in that statutory definition is there any suggestion that the term "campaign" was intended to

1. We should point out that while the flyer does not state the name and address of the person who financed it, it does contain a list of "Candidates and concerned citizens" who urged support for the Saco Industrial Park Bond Issue.

John R. Kugler, Esquire
Assistant District Attorney
December 3, 1981
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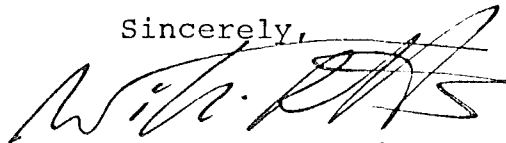
include municipal referenda.²

Moreover, it should be observed that as a result of 30 M.R.S.A. §5356 (1981-1982 Supp.), as most recently amended by P.L. 1977, c.696, §229, the Legislature has provided that "[a] candidate for municipal office of a city of 10,000 or more population is governed by Title 21, sections 1391 to 1402....", i.e., the Campaign Report and Finances Act. In our view, it is significant that when the Legislature amended 30 M.R.S.A. §5356 in 1977, it did not make the provisions of 21 M.R.S.A. §1411-1420 applicable to municipal referendum campaigns, thereby suggesting that it had no intent to do so.³

For the foregoing reasons, we believe no violation of 21 M.R.S.A. §1416 (1981-1982 Supp.) occurred with respect to the flyer you forwarded to us which advocated the promotion of the Saco Industrial Park Bond Issue.

We hope this information is helpful to you. Please feel free to call upon us if we can be of further assistance.

Sincerely,



WILLIAM R. STOKES
Assistant Attorney General

WRS:sm

2. We should also point out that we have examined the legislative history of 21 M.R.S.A. §§1411-1420 (1981-1982 Supp.) which was enacted by Chapter 575, §17 of the Public Laws of 1977. Nothing in that legislative history addresses the question of whether P.L. 1977, c.575, §17 was intended to apply to municipal referendum campaigns.

3. While it is our opinion that the Legislature did not intend the provisions of 21 M.R.S.A. §§1411-1420 (1981-1982 Supp.) to apply to municipal referendum campaigns, it should be observed that by virtue of Article VIII, pt. 2, §1 of the Maine Constitution and 30 M.R.S.A. §§1911-1920 (1978), municipalities have been granted "very broad Home Rule powers" pertaining to matters which are local and municipal in character. See Begin v. Inhabitants of the Town of Sabattus, Me., 409 A.2d 1269, 1274 (1979). Consequently, the City of Saco is free to enact charter provisions or ordinances regulating the conduct of municipal referendum campaigns.