

MAINE STATE LEGISLATURE

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1 (After Deadline)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TENTH LEGISLATURE
5

6 **Legislative Document**

No. 2010

7
8 H. P. 2069 House of Representatives, February 19, 1982
Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 27.

Referred to the Committee on Local and County Government. Sent
up for concurrence and ordered printed.

9 EDWIN H. PERT, Clerk
Presented by Representative A. Brown of Gorham.

Cosponsors: Representative Tarbell of Bangor, Representative La-
Plante of Sabattus and Senator Perkins of Hancock.

10
11 **STATE OF MAINE**
12

13 IN THE YEAR OF OUR LORD
14 NINETEEN HUNDRED AND EIGHTY-TWO
15

16 **AN ACT to Clarify the Effect of an Attor-**
17 **ney's Opinion on the Procedures for In-**
18 **itiating Amendments to Municipal Charters.**
19

20 Be it enacted by the People of the State of Maine as follows:

21 30 MRSA §1914, sub-§3-A is enacted to read:

22 3-A. Amendment constituting revision. At the request
23 of the petitioners' committee, the petition form shall also
24 contain the following language:

25 "Each of the undersigned voters further requests that
26 if the municipal officers determine that the amendment
27 set out below would, if adopted, constitute a revision
28 of the charter, then this petition shall be treated as
29 a request for a charter commission."

30 Upon receipt of a petition containing such language, the
31 municipal officers shall, if they determine with the advice

1 of an attorney that the proposed amendment would constitute
2 a revision of the charter, treat the petition as a request
3 for a charter commission and follow the procedures applica-
4 ble thereto.

5 30 MRSA §1914, sub-§4, ¶B, as repealed and replaced by
6 PL 1971, c. 362, §4, is amended to read:

7 B. Within 7 days after the public hearing, the municipi-
8 pal officers or the committee appointed by them shall
9 file with the municipal clerk a report containing the
10 final draft of the proposed amendment and a written
11 opinion by an attorney admitted to the bar of this
12 State that as to whether the proposed amendment is not
13 in conflict with the general laws or the Constitution
14 of Maine. The written opinion of the attorney shall be
15 for the sole purpose of voter information, and a con-
16 clusion by the attorney that the proposed amendment is
17 in conflict with the general laws or the Constitution
18 of Maine shall not relieve the municipal officers of
19 the duty to place the proposed amendment on the ballot.
20 In the case of a committee report, a copy shall be
21 filed with the municipal officers.

22 STATEMENT OF FACT

23 The purpose of this bill is to clarify the role of the
24 attorney's opinion in the procedure for initiating amend-
25 ments to municipal charters. There have been a number of
26 instances in which amendments initiated by the required
27 number of citizens have been kept off the ballot because of
28 an attorney's opinion that the amendment either would con-
29 flict with the general laws or the Constitution of Maine or
30 would constitute a charter revision. The result has been
31 that a large group of citizens have been denied access to
32 the ballot because of the opinion of a single individual.

33 This bill would remedy the above problem in 2 ways.
34 First, it would allow the petitioners to request that their
35 petition be treated as a request for a charter commission if
36 it should be determined that their proposed amendment would
37 have the effect of revising the charter. Second, it would
38 prohibit the municipal officers from keeping a proposed
39 amendment off the ballot because of an opinion that the
40 amendment would conflict with the general laws or the Con-
41 stitution of Maine.

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