

MAINE STATE LEGISLATURE

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March 6, 1945

To Earle R. Hayes, Secretary, Employees' Retirement System
From Ralph W. Farris, Attorney General

I have your memo of March 6th relating to the University of Maine, in case L. D. 70 and L. D. 545, now pending before the present legislature, become law.

In answering your questions contained in your memo of said date, which were based upon the assumption that L. D. 70 becomes law, thereby establishing the University of Maine as "an instrumentality and agency of the state," and upon the further assumption that L. D. 545 is enacted into law, which bill provides that "all officers and employees of the University of Maine" shall be considered as employees for the purposes of the State Employees' Retirement System, it is my opinion that, inasmuch as Section 118 of Chapter 37, R. S. 1944, provides, "The University of Maine Fund shall be disbursed by the treasurer of state upon proper order by the trustees of the University of Maine and upon requisition approved by the governor and council," and that Chapter 216, Article I, Section 1, P. L. 1931 provides that the provisions of the administration of the state act shall not be construed to apply to the University of Maine, and that this provision of law is still in effect, having been exempted from the repealing act at the special session of the legislature held in September, 1944, by Senate Paper 524, L. D. 934; and inasmuch as Section 13, subsection 6 provides that budget estimates shall be broken down in such a way as to permit the proper allocation of costs among the general funds of the State, the general highway funds, and such other funds as it may be found practicable by the State budget officer to charge with their proportionate share of the cost of pensions; it would seem that the State budget officer has no authority over the University of Maine special mill fund, as set up in Section 117, Chapter 37, R. S. 1944, and cannot legally transfer money from that fund to the Employees' Retirement Fund to cover the State's liability for the employees of the University of Maine in case they should become members of the system under the provisions of L. D. 545, unless Section 13, subsection 6, Chapter 60, R. S. 1944 and Section 118 of Chapter 37, R. S. 1944, were amended by the legislature, and the last paragraph of Section 1, Chapter 216, P. L. 1931, so far as it relates to the University of Maine, were repealed.

It is also my opinion that in case L. D. 545 becomes law and the employees of the University of Maine become members of the Retirement System, it would be proper to allocate the cost of the pensions among the general funds of the State, as it would not be practicable under the present provisions of the statutes above cited for the State budget officer to charge the University of Maine Fund with the carrying out of the provisions of L. D. 545.

Ralph W. Farris
Attorney General

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