

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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April 17, 1946

To Earle R. Hayes, Secretary, Employees' Retirement System
 Re: Members over 65 Years of Age, with 35 Years of Service, No Longer Contributing

I have your memo of April 12th, relating to a member over 65 years of age with 35 years of service, who elected not to make any further contributions when he attained the age of 65. You ask whether or not he is entitled to the annuity provided for under the law for the period for which he did not make contributions. You further state that the Actuary of the System is of the opinion that the law does not contemplate the State's paying an annuity for that period of time following the cessation of the contributions, and you ask me whether or not I agree with this point of view.

In reply I will say that I agree with the stand of the Actuary of the System in this matter.

RALPH W. FARRIS
 Attorney General

April 17, 1946

To Earle R. Hayes, Secretary, Employees' Retirement System
 Re: Status of Employees of Maritime Academy

I received your memo of April 12th, asking my opinion as to the status of the employees of the Maine Maritime Academy at Castine. You ask my opinion specifically as to whether or not the employees of said academy are eligible to become members of the State Employees' Retirement System.

This is a private corporation created by Chapter 37, P&SL 1941, as the Maine Nautical Training School, and the name was changed by Chapter 102 of the P&SL of 1941 to the Maine Maritime Academy, which academy has the same rights and privileges as corporations organized under the general laws. It is my opinion that its employees are not eligible to become members of the State Retirement System without legislative authority.

RALPH W. FARRIS
 Attorney General

April 17, 1946

To Earle R. Hayes, Secretary, Employees' Retirement System

I have your memo of April 12th, relating to the provisions of Subsection VI of Section 3 of Chapter 60, R. S. 1944, which provides as follows:

"Should any member in any period of 5 consecutive years after last becoming a member be absent from service more than 3 years. . ."

You ask whether or not the board has any discretion as to what constitutes an absence of three years; or should a former employee who did

leave his contributions in the System be absent from the service three years and one month, would the board have any discretion in the matter?

My reply to your question is that said statute is mandatory and the board would have no discretion, except in those cases provided for in said section of the statute, which you have not quoted.

RALPH W. FARRIS
Attorney General

April 29, 1946

To Brig. Gen. George M. Carter, Adjutant General

I have your memo of April 23rd relating to the credit to the War Bond Account of the Military Defense Commission of rentals received from the Federal Government and from individuals and municipalities for the use of the State armories; and I note that the former Finance Commissioner, Mr. Mossman, credited the receipts from the rentals of armories to the State's General Fund, rather than to the War Bond Fund of the Commission. . . You state that you would appreciate a ruling from this office on this matter. . .

It is my opinion, after studying Chapter 308, P. L. 1939, and Chapter 120, P. & S. L. 1939, (the latter chapter providing for a bond issue for military expenses) and in view of the fact that the Finance Department is carrying two accounts, one for the Military Defense Commission called the War Bond Account of the Commission, and the Adjutant General's Account, which is created by appropriations of the legislature, that the proper procedure was followed in crediting the proceeds of the rentals of armories to the General Fund, rather than to the War Bond Fund.

The statute provides that "The proceeds of all bonds issued under the authority of this act shall at all times be kept distinct from other moneys of the State. . . So much of the same as from time to time shall not be needed for current expenses shall be placed at interest and the income derived therefrom, etc."

Section 4 provides as follows: "Proceeds of the sales of such bonds which shall be held by the state treasurer, paid by him upon warrants drawn by the governor and council, are hereby appropriated to be used solely for the purposes set forth in this act."

Section 6 provides that the interest shall be met by money from the State Treasury not otherwise appropriated (which is the General Fund), upon warrants drawn by the Governor and Council therefor.

After studying these two chapters passed at the special session of 1940, I am of the opinion, as I have said, that the proper procedure was followed, as the General Fund is responsible for interest on these bonds, and the appropriation was taken from the General Fund, and the legislature provides an appropriation in your budget each year for the operation of the Adjutant General's Department, and this money from rentals