

MAINE STATE LEGISLATURE

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April 6, 1948

To Alfred W. Perkins, Actuary, Employees' Retirement System
Re: Transfer, M.T.R.A. Funds to Employees' Retirement System

I have your letter of January 26, 1948, as consulting actuary for the State Employees' Retirement System. You state that the new Employees' Retirement System, effective August 13, 1947, includes all teachers, and that all funds formerly to the credit of M.T.R.A. shall be transferred either to the "Teachers Savings Fund" (Subsection II, Section 14, Chapter 384, P.L. 1947) or to the "Pension Accumulation Fund" (Subsection IV-K, Section 14, Chapter 384, P.L. 1947).

You call my attention to the audit by the State Auditor, dated December 17, 1947, in which he states that "an examination of the accounts of the Maine Teachers Retirement Association Fund revealed a condition which merits attention and corrective action by the officials concerned. It was indicated that overpayments had been made by the State as its share of contributions to this Fund in the amount of \$97,316.13. This error was occasioned by paying into the fund as the State's share the amounts budgeted rather than applying the actuarial equivalent to the actual amount of monies paid into the Fund by the teachers. These errors occurred in the fiscal years 1942-43 through 1945-46 inclusive."

I note that, according to correspondence which you have had with the State Auditor, he feels that payments in the amount of \$100,930.94, which includes interest, should be transferred to the general fund from the M.T.R.A. Fund. You further state in your letter of January 26th that actually this would involve a transfer from the Pension Accumulation Fund to the general fund, as Mr. Berry in his report is speaking solely of the State's payments to M.T.R.A., which has now been merged with the Pension Accumulation Fund, in accordance with Subsection IV-K of Section 14, Chapter 384, P.L. 1947.

In my opinion the wording of the statute, Section 14, IV-K, is clear and unambiguous; and inasmuch as this law became effective on August 13, 1947, and in view of the fact that the State Auditor's Department did not discover this so-called error until after the law had become effective, it is my opinion that all funds credited under Subsection III of Section 227 and Section 236 of Chapter 37 of the Revised Statutes of 1944 were automatically transferred to the Pension Accumulation Fund of the Retirement System, and I am informed that this has been done by Mr. Kenney of the Department of Education.

Looking into the history of the M.T.R.A. Fund through the '30's, I find that the legislature made no appropriations to match the contributions of the teachers, and when the legislature convened in 1941, the State owed this Fund nearly a million dollars. In 1941 and 1943 the legislature made appropriations to take care of this obligation, and on February 8, 1944, the then Governor, Sewall, Finance Commissioner Mossman, Attorney General Cowan, and Commissioner

of Education Gilson had a conference in regard to the actuarial contributions to M.T.R.A., and it was decided at that time by these State officials that, considering the impracticability of an annual actuarial study to determine the exact amounts to be paid the Retirement Fund from legislative appropriations, Mr. Kenney, the auditor in the Department of Education, should be advised not to lapse any of the legislative appropriations in this Fund, upon which Mr. Berry comments in his report of December 17, 1947.

If these State officials erred in 1944, it is a matter that should be taken care of by the next legislature and not by the Attorney General's Department, at this late date.

Ralph W. Farris
Attorney General

RWF:c
cc: State Auditor
Employees' Retirement System