

# MAINE STATE LEGISLATURE

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January 12, 1951

To Honorable Frederick G. Payne, Governor of Maine  
Re: Coverage of State and Local Employees under Old Age and  
Survivors Insurance

Reference: Attached material dated January 3, 1951, from The  
Council of State Governments

The recent Amendment to Title II of the Social Security Act, extending Old Age and Survivors Insurance to state and municipal employees does not extend to any such employees who are covered by a retirement system.

All Maine State employees are covered by retirement system, or are entitled to be covered. The only class of State employees who might be eligible for Old Age and Survivors Insurance would be employees of such long standing as to have had the right to elect to be outside the State's retirement system. This raises a legal question which need not be considered at this time, namely, whether those who elected to remain outside the Retirement System might have the right to be covered by Old Age and Survivors Insurance.

Under existing federal legislation, so far as State employees generally are concerned, the Amendment to the Social Security Act is of no real practical value.

On the occasion of my trip to the Legislative Research Conference in Washington last fall I had an opportunity to discuss this matter with representatives of the Federal Security Agency, including an attorney from their General Counsel's office, at which time I learned for the first time that the Federal Security Agency will not deal directly with political subdivisions which elect to participate in the Old Age and Survivors Insurance program, but will deal only with the respective state governments. This means that, if any eligible political subdivision of this State wishes to participate in the program, it will be necessary for the State to enact enabling legislation either creating an agency to collect and transmit the necessary taxes or assigning such duties to an existing state agency. I was assured that the Federal Security Agency would draft suggested state legislation for this purpose and that the same would be forwarded either to the respective Governors or to the Attorneys General for consideration at current sessions of the legislatures. To date I have not seen any such drafts.

The attached material is an Agreement that would be entered into between the State and the Federal Security Administrator, obligating the State to collect taxes, etc., on behalf of subdivisions covered by the federal program and it is an agreement which could only be entered into after the necessary enabling legislation had been enacted, making it possible for the State to enter into such an agreement. To date I have had no information from any source as to who stands

the administrative cost at the State level for handling the program. I was told in Washington that there would be no federal funds for this purpose.

We have had a few inquiries relative to this subject and have answered each by saying, "It can be done, but enabling legislation would be necessary."

Some of these inquiries have come from Housing Authorities. Whether or not such Authorities may participate in the federal program I am not prepared to state at this time.

We should not lose sight of the fact that under the State Retirement Law, each and every political subdivision is eligible, if it so elects, to participate in the State Retirement program, and as a matter of fact a great many are now participating. Whether or not those political subdivisions, water districts, etc., as are not participating in the State Retirement program but could do so if they wished, would nevertheless be eligible to participate in the federal program is a legal question which I am not prepared to answer at this time.

If this matter should develop to the extent that it becomes apparent that enabling legislation should be presented to the legislature, I believe that we can get assistance from the Regional Attorney of the Federal Security Agency at Boston. I have made no move in this direction for the reason that I felt that the embarking of the State upon a tax collection program, in effect as agents of the Federal Government, would not be attractive to the Administration at this time.

John S. S. Fessenden  
Deputy Attorney General

jssf/c