

MAINE STATE LEGISLATURE

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710

May 22, 1951

To Frederick B. Dodd, Esquire
Fifteen Cross Street, Bangor

. . .Reference is made to your letter of May 17, 1951, relative to the right of an employee who, being eligible for retirement at a future date, wishes to assign his right to a sum of money payable at his retirement as collateral for a present loan. I cannot tell from your letter whether you are representing the employee or the bank contemplating the loan. Any opinion that this office might have with respect to the subject will be purely academic so far as the bank is concerned, as the bank will undoubtedly act only upon the advice of its own counsel.

The State Employees' Retirement System, as established by Chapter 60, R. S. 1944, was substantially revised by the provisions of Chapter 384 of the Public Laws of 1947. I cannot quite understand your statement that upon retirement this employee will be entitled to a sum estimated at \$800. As I read the Retirement statute, upon retirement he is not entitled to a lump sum of money, but on the contrary is entitled to a pension or an annuity predicated upon the accumulated funds which remain in the Fund and are not paid to him. The only provision that I know of whereby an individual may receive a sum of money predicated upon the amount that he has paid in towards his own retirement is where such member ceases to be an employee prior to his death or retirement, in which case he can apply for and will receive the amount of money that he has paid in on his own behalf.

Under these circumstances I see no way in which an assignment could be made, since as long as the individual remains an employee he is not entitled to withdraw the money, and upon his retirement, if he remains an employee, he does not receive a lump sum settlement.

Of course, a person may, upon reaching the age of retirement, decide that he wishes to retire and forego the retirement features of the law and at that time receive the amount that he has paid in, as may any other person who voluntarily decides to give up his State employment. This may be what this employee is planning to do. If so, I still fail to see how the bank could protect itself against his changing his mind at the time of retirement, by making application for the retirement benefits which the law provides for him . . . ;

John S. S. Fessenden
Deputy Attorney General

jssf/c