

MAINE STATE LEGISLATURE

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October 30, 1951

To Earle R. Hayes, Secretary, Maine State Retirement System
Re: County Officers - Social Security Act.

. . . Under the provisions of the Social Security Act permitting Social Security benefits to employees of political subdivisions of the State, certain services may be included or excluded in the agreements which are entered into between the State agency and the various political subdivisions. To quote the language of Section 218 (c)(3),

"Such agreement shall, if the State requests it, exclude . . . any service of an emergency nature or all services in any class or classes of elective positions. . ."

You ask: "Would the following elective positions be considered as separate classes or all in one class in your opinion: Register of Deeds, Register of Probate, Clerk of Courts, Sheriff, County Commissioners, etc."

You will note that the word "agreement" in Section 218 (c)(3) refers to the agreement between the State and the Federal Government, not to agreements between the State agency and the various political subdivisions. Looking at the problem from this angle, it would seem that categories of positions above quoted could in one instance be within a particular class, i.e., elective county offices, or again each of the above categories could be a particular or separate class. For instance, if in your agreement, you excluded all county elective officials, then those different positions would all fall within the exclusion and therefore would not be eligible for benefits. However, if in the agreement between the State and the Federal Government, you excluded the elective office of Register of Deeds, then the persons holding that position throughout the State would be excluded while Registers of Probate, Clerks of Courts, etc., would not be within the excluded class.

Your problem is a very difficult one to answer, and I have merely set my thoughts on paper in the hope that they will help you in arriving at the proper conclusion. In any event I believe that these positions above mentioned could be either one class or different classes of elective positions, according to how you phrase your exclusion in your agreement.

If I have not sensed your immediate problem, please request another opinion, posing your question more specifically.

James G. Frost
Assistant Attorney General

jgf/c