

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

“In the absence of any specific provision to the contrary, we believe it to be the right of any Participating Local District already in the System to elect or reject any or all of the new amendments to the law.”

Chapter 60 of the Revised Statutes was revised by Chapter 384 of the Public Laws of 1947. By virtue of the provisions of Chapter 60 it was provided that any county, city or town might participate in the benefits extended by the chapter. The revised law was amended to include other quasi-municipal corporations of the State and stated that any county, city, town, water district, or other quasi-municipal corporation which on July 1, 1947, was a participating local district under the provisions of Section 15 of Chapter 60 of the Revised Statutes of 1944 shall be subject to the provisions of Chapter 384 of the Public Laws of 1947 unless it otherwise chose to remain under the provisions granted by Section 15 of Chapter 60 of the Revised Statutes.

On August 5, 1947, in an opinion addressed to you from Ralph W. Farris it was stated that any local district which was in the System as of July 1, 1947, might continue to operate under the original provisions of Chapter 60 of the Revised Statutes of 1944 or it might elect to take on any or all of the benefits and privileges as indicated in Section 22 of Chapter 384 of the Public Laws of 1947. Doubtless your understanding that participating local districts in the System might elect or reject any or all of the new amendments to the law was based on the above mentioned opinion.

Section 16 of Chapter 384 of the Public Laws of 1947 states that these political subdivisions of the State may participate in the Retirement System, provided the appropriate body of that political subdivision approves such participation and files with the Board of Trustees a certified copy of the resolution of the appropriate body approving such participation *and the extent of the benefits which shall apply.*

The above underlined phrase of Section 16 remains unchanged today and we are of the opinion that any political subdivision eligible to participate in the Maine Retirement System, which did not elect to remain under the provisions of Chapter 60 of the Revised Statutes of 1944 still has the right to elect the benefits which shall apply to it.

It is our opinion that the provisions of the 1951 amendments do not apply to participating local districts in the System on the effective date of said amendment, when those districts have elected to remain under the provisions of Chapter 60 of the Revised Statutes of 1944, as distinguished from the provisions of Chapter 384 of the Public Laws of 1947.

JAMES G. FROST
Assistant Attorney General

April 14, 1952

To Honorable Frederick G. Payne, Governor of Maine
Re: Powers of the Governor *in re* Strikes

Answering your recent request about the provisions of statute having to do with the powers of the Governor in case of strikes, it would appear that the following are pertinent:

“In case of insurrection, invasion, tumult, riot, mob, or body of men acting together by force with intent to commit a felony, or to offer violence to persons or property, or by force and violence to break and resist the laws of this state or the United States, or of imminent danger thereof, or in the event of public disaster resulting from flood, conflagration, or tempests, the governor shall have the power to order into active service of the state or in aid of any civil authority the national guard or other authorized state military or naval forces or any part thereof that he may deem proper.” (Ch. 12, § 2, R. S.)

Section 10 of Chapter 123 provides:

“When persons, riotously or unlawfully assembled as described in section 9, neglect or refuse, on command . . . to disperse without unnecessary delay, any 2 of the officers (named in section 9) may require the aid of a sufficient number of persons in arms or otherwise, and may proceed in such manner as they judge expedient to suppress such riotous assembly, and to arrest and secure the persons composing it: and when an armed force is thus called out, it shall obey the orders, for suppressing such assembly and arresting and securing the persons composing it, which it receives from the governor. . . .”

Section 11 of Chapter 25, R. S., provides:

“Whenever it appears to the mayor of a city or the selectmen of a town or any citizen of the state directly involved. . . that a strike is seriously threatened, or a strike actually occurs, he or they shall at once notify the state board of arbitration and conciliation and such notification may also be given by the employer or employees actually concerned in the dispute, strike or lockout. If, when such strike is threatened or actually occurs, it appears that as many as 10 employees are directly concerned therein, the state board of arbitration and conciliation shall, and in any case may, as soon as may be, communicate with such employer and employees and endeavor by mediation to obtain an amicable settlement or endeavor to persuade such employer and employees to submit the matter in controversy lockout, or their proper representatives, agree to abide by the decision of the board to which it is submitted, said board shall investigate such controversy and ascertain which party is mainly responsible or blameworthy for the existence of the same, and the board may make and publish a report finding such cause and assigning such responsibility or blame. The state board shall, upon request of the governor, investigate and report upon any controversy if in his opinion it threatens to affect the public welfare.”

These sections of the statutes appear to be the ones which are particularly pertinent to the subject in hand.

NEAL A. DONAHUE
Assistant Attorney General