

MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT
OF THE
ATTORNEY GENERAL

for the calendar years
1955 - 1956

State than another industry, which would of necessity be the case if, in order to conserve clams in a particular area, the digging of marine worms could be prohibited in that area.

JAMES GLYNN FROST
Deputy Attorney General

October 18, 1955

To Colonel Robert Marx, Chief, Maine State Police

Re: Insurance Status of Men Enlisted prior to July 9, 1943

We have your request regarding the status of men enlisted in the Maine State Police prior to July 9, 1943, as regards their eligibility for group life insurance under the provisions of Chapter 451 of the Public Laws of 1955.

The laws applicable to this situation are:

Section 24 of Chapter 63-A, Revised Statutes of 1954, as enacted by Chapter 451 of the Public Laws of 1955, through subsection I, reads as follows:

“Group life insurance shall be made available to state employees and teachers, subject to the following provisions:

I. Except as provided herein, each appointive officer or employee of the State of Maine, or teacher, who is eligible for membership in the Maine State Retirement System, shall at such time and under the conditions of eligibility as the Board of Trustees may by regulation prescribe, come within the purview of this section. Such regulations may provide for the exclusion of employees on the basis of nature and type of employment or conditions pertaining thereto, such as, but not limited to, emergency, temporary or project employment and employment of like nature; which regulation shall be issued only after consultation with the appointing authority concerned; provided that no employee or group of employees shall be excluded solely on the basis of the hazardous nature of employment.”

Section 1 of Chapter 64, R. S. 1954, in part:

“‘Employee’ shall mean any regular classified or unclassified officer or employee in a department, including teachers in the state teachers’ colleges, normal schools and Madawaska training school, and for the purposes of this chapter, teachers in the public schools, but shall not include any member of the state legislature or the council or any judge of the superior or supreme judicial court who is now or may be later entitled to retirement benefits under the provisions of section 5 of chapter 103 and section 3 of chapter 106, nor shall it include any member of the state police who is now entitled to retirement benefits under the provisions of sections 22 and 23 of chapter 15. In all cases of doubt the board of trustees shall determine whether any person is an employee as defined in this chapter.”

This definition of “employee” is seen unchanged in the reenactment of the Retirement Law in Chapter 417 of the Public Laws of 1955.

The first paragraph of Section 22 of Chapter 15, R. S. 1954:

“Any member of the state police who shall have served as a member thereof for 20 or more years with a good record shall upon request in

writing to the chief of the state police be retired from active service and placed upon the pension rolls, and receive thereafter ½ of the pay per year that is paid to a member of his grade at the time of his retirement, Provided that this section shall apply only to persons who were members of the state police on July 9, 1943.”

In reviewing the foregoing statutes it becomes self-evident that the right to the group life insurance is conditioned upon eligibility for membership in the Maine State Retirement System; further, that the term “employee,” as used in the Retirement Act, definitely excludes members of the Maine State Police who still belong to the retirement system provided in Section 22 of Chapter 15. This being true, they are not eligible for retirement under the Maine State Retirement System, as we understand it, and of course it necessarily follows that they are ineligible for the group life insurance.

In view of the foregoing it will be necessary to ask the legislature to include within that group of persons eligible for group life insurance the men who are now under the State Police Retirement System.

ROGER A. PUTNAM
Assistant Attorney General

October 21, 1955

To Honorable Edmund S. Muskie, Governor of Maine

Re: New England Board of Higher Education

You ask: “In your opinion, under the Maine statute, in order to implement it, is it necessary that the five States execute a formal document incorporating the provisions of the statute, or is it sufficient that the States involved exchange verified copies of their legislation?”

In my opinion, in order to make the proposed compact effective as between two or more of the New England States, it will be necessary to execute a formal document embodying, so far as Maine is concerned, substantially the same provisions as are set forth in the Maine statute.

The Maine statute contemplates the necessity of more than a mere exchange of copies of legislation.

Section 2 of Chapter 441, P. L. 1955, provides as follows:

“Authorization. The Governor, on behalf of this State, is hereby authorized to enter into a compact, substantially in the following form, with any one or more of the states of Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont; said compact to be effective upon the filing of a copy thereof in the office of the Secretary of State.”

It is apparent that this gives the Governor the authority to enter into a compact for and on behalf of the State and that the statute in and of itself does not, and does not purport to, constitute such a compact. This section does, however, impose a general limitation that the compact, when entered into, must substantially comply with the form prescribed by the statute.

Section 3 of this statute provides that a verified copy of the compact, not the statute, when executed by the Governor on behalf of this State, be filed with