

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**For The Calendar Years**

**1963 - 1964**

Whereas paragraph B has no requirements as to length of creditable service in Maine yet payment into the retirement fund for out-of-state service is less favorable.

Under paragraph A the favored teachers upon completion of certain creditable service in Maine may obtain certain out-of-state credit by contributing "on the same basis as he would have made contributions had such service been in Maine" i. e., only the member's contribution.

Under paragraph B the employee may have out-of-state credit if he pays into the fund "the actuarial equivalent, at the effective date of his retirement allowance, of the portion of his retirement allowance based on such additional creditable service," i. e., both the employer's and the member's share of his out-of-state service to be allowed. (If the actuarial equivalent is more than the so-called state's share plus member's share, he must pay that figure. The same is true if the actuarial equivalent should be less than the total of the two shares. In either event, he pays the "actuarial equivalent.")

GEORGE C. WEST

Deputy Attorney General

March 7, 1963

To: Wallace E. Brown, Deputy Secretary of State

Re: Interpretation of R. S., Chapter 22, section 77, V, F

You ask whether a person transporting cargo, who has liability coverage but does not have cargo insurance, and who negligently damages the cargo, is exempted from the provisions of the Financial Responsibility Law.

The answer is yes. All that the law requires of a vehicle owner is that he have in effect at the time of the accident a liability policy. In your case the owner had property damage coverage which would apply to the property damaged.

LEON V. WALKER, JR.

Assistant Attorney General

March 8, 1963

To: Earle B. Hayes, Executive Secretary, Maine State Retirement System

Re: Chapter 63-A, R. S. as amended, Section 6, subsection IV

We are in receipt of your request for an opinion based on the following facts, as they have been submitted to us by your Department.

"A member of the State Police who has had, up to now, a total of approximately 18 years of service in that Department and who also had some 8 years of service as a guard at the Maine State Prison prior to his affiliation with the Maine State Police Department is now asking as to whether or not he can qualify for the half pay retirement benefit provided for in Chapter 63-A, § 6 IV, R. S. 1954, as amended."

Chapter 63-A, section 6, subsection IV-A, reads as follows:

"A. Any member who

"1. Was a member on July 1, 1947 and is the deputy warden, the captain of the guard, or a guard of the state prison; or a warden in the department of inland fisheries and game, or a warden of the department of sea and shore fisheries, or

"2. Is a member of the state police, including the chief thereof, and who became a member of that department subsequent to July 9, 1943; an airplane pilot employed by the state of Maine; or a member of a fire or police department including the chiefs thereof and sheriffs and deputy sheriffs, and, in any case, who has at least 25 years of creditable service in his respective capacity, may be retired on or after the attainment of age 55 on a service retirement allowance."

The employee in question began his state employment on 8 August 1937 and has been continuously employed through the present time. When the State Retirement System came into effect in 1942, this employee became a member. From 1937 until 1945 this employee worked as a guard at the Maine State Prison, and from 1945 until the present, he has been a member of the Maine State Police.

It is our opinion that the employee in question clearly falls within the mandate of section 6, subsection IV-A. He was a member on July 1, 1947 as a guard; he became a member of the State Police subsequent to July 9, 1943; he has at least 25 years of creditable service; service has been continuous from 1937.

I specifically call your attention to the last few lines of section 6, subsection IV-A, number 2, where it states:

" . . . *in any case*, who has at least 25 years of creditable service in his respective capacity . . . "

There is nothing in section 6, subsection IV-A, number 2 that is intended to mean that an employee must stay in one specific job, as enumerated, for the full tenure of service. The job of a guard, and the job of a state police officer are both enumerated within the above mentioned section. Had the employee in question been either a guard or a state police officer exclusively, for the full tenure of his service, there would be no question as to his retirement eligibility. It is, therefore, our opinion that the Legislature did not intend to divest any employee of his retirement benefits if he were to transfer from one department in the state to another department, both being specifically enumerated in the above-mentioned statute.

WAYNE B. HOLLINGSWORTH

Assistant Attorney General

March 13, 1963

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Additions to Flanders Bay Community School District