

MAINE STATE LEGISLATURE

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April 15, 1963

Earle R. Hayes, Executive Secretary

Maine State Retirement System

George C. West, Deputy

Attorney General

Coverage of "Policemen" Under Social Security Program

We have your memo of March 28, 1963, and the attached copy of a letter from the Department of Health, Education and Welfare, indicating the need for an opinion of the Attorney General on the following questions:

Question: May the Maine State Retirement System, under our present law, be divided for referendum and coverage purposes into two deemed retirement systems in the manner permitted by the Federal law (P.L. c. 85-840, section 316) i.e., into one system composed of the positions of policemen, as the term "policemen" is defined in section 316 of the Federal law, and the other composed of the positions of all employees other than policemen as so defined?

Answer: The Maine Retirement System may be divided for referendum and coverage purposes into two deemed retirement systems, one composed of the position of policemen and the other of the positions of all employees other than policemen.

The Maine Social Security Act (Chapter 65, R.S. 1954) was originally enacted to enable employees of political subdivisions of the State to participate in the benefits of Social Security in cases where such employees were not members of an existing retirement or pension system.

Subsequently, this Act was amended to permit participation by such employees whether they were members of existing retirement or pension plans or not. Teachers and firemen, however, were expressly excluded from participation in Social Security.

It is our opinion, in so far as such legislation was enacted with full knowledge, that certain local subdivisions were members of the Maine Retirement System, that the Maine Retirement System may be deemed to be separate systems with respect to any one or more of the local subdivisions and to all other positions covered by the Maine Retirement System.

April 15, 1963

Because of the provision that the chapter shall not apply to teachers and firemen who are under a state or local government pension or retirement plan, we conclude that our system may be deemed to be a separate system as to policemen and a separate system as to other employees of a local subdivision.

In enacting our Social Security Act, the Legislature said:

" . . . it is declared to be the policy of the Legislature, subject to the limitations of this chapter, that such steps be taken as to provide such protection to such employees on as broad a basis as is permitted under the Social Security Act."

(Chapter 65, Section 1, R.S. 1954.)

We have been (Opinions of Attorney General, October 12, 1954 and December 29, 1958) and are now of the opinion that such statement is adequate authority for the Governor to direct the proper officials to conduct the necessary referendum required by Federal law.

George C. West
Deputy Attorney General

GCW:H