

MAINE STATE LEGISLATURE

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Yes ✓

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Earl R. Hayes, Executive Secretary

Maine State Retirement System

Jerome S. Matus, Assistant

Attorney General

Status of Maine Potato Commission Under Social Security

FACTS:

Employees of "political subdivisions" of the State of Maine are eligible for coverage under the Federal Old Age and Survivors Insurance System through the medium of an agreement between the Maine State Retirement System and the Federal Security Administrator authorized by § M.R.S.A. § 1223.

QUESTION:

Is the Maine Potato Commission a "political subdivision" so that the Maine State Retirement System may enter into an agreement with the Federal Security Administrator extending benefits of the Federal Old Age and Survivors Insurance System to the Commission's employees?

ANSWER:

No.

OPINION:

The pertinent portion of § M.R.S.A. § 1223 reads as follows:

"§1223. Federal-State agreement

The state agency, with the approval of the Governor, is authorized to enter on behalf of the State into an agreement with the Federal Security Administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the Federal Old Age and Survivors Insurance System to employees of any political subdivision of the State . . ."

"Political subdivision" is defined as follows:

"6. Political subdivision. The term 'political subdivision' includes an instrumentality of the State of Maine, of one or more of its political subdivisions, the University of Maine, academies, water, sewer and school districts and associations of municipalities, or an instrumentality of the State and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the State or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the State or subdivision." 5 M.R.S.A. § 1222, subsection 6.

This definition of "political subdivision" encompasses an instrumentality of the State but only if the instrumentality is a juristic entity legally separate and distinct from the State. The Maine Potato Commission is not a juristic entity legally separate and distinct from the State. Thus, the Maine Potato Commission is not a "political subdivision" of the State.

The Maine State Retirement System is not authorized by 5 M.R.S.A. § 1223 to enter into an agreement with the Federal Security Administrator to extend benefits of the Federal Old Age and Survivors Insurance to employees of the Maine Potato Commission.

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