

# MAINE STATE LEGISLATURE

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June 24, 1965

Earle R. Hayes, Executive Secretary

Maine State Retirement System

Jerome S. Hatus, Assistant

Attorney General

Status of Employees of Boothbay Harbor Water System.

**FACTS:**

The Social Security regional representative, in a letter to the Executive Secretary of the Maine Retirement System dated March 15, 1965, made certain statutory references and indicated to the Executive Secretary that in the absence of further relevant statutory material, an opinion of the Maine Attorney General to the effect that the Boothbay Harbor Water System is a separate juristic entity would be necessary in order to establish a separate coverage group with respect to said water system. Referring to the letter received from the Social Security regional representative, the Executive Secretary of the Maine Retirement System has posed the following question concerning the status of the employees of the Boothbay Harbor Water System:

**QUESTION:**

Are the employees of the Boothbay Harbor Water System, employees of the Town of Boothbay Harbor rather than employees of a separate political subdivision of the state?

**ANSWER:**

Yes.

**OPINION:**

On May 16, 1952, the Maine Supreme Judicial Court rendered an opinion in the case of The Inhabitants of Boothbay v. The Inhabitants of Boothbay Harbor, 148 Me. 31, in which case, after tracing the legislative history of the authority and power of Boothbay Harbor in respect to its water system, the court reached the following conclusion:

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"For over a half century Boothbay Harbor has owned, maintained and operated the water system." Id. p. 35.

The Court further states:

"Boothbay Harbor obviously is neither a water company nor a water district. Nor does it own the stock of the public utility corporation, with control and management by representatives of the town . . . . It is equally clear that Boothbay Harbor is a public municipal corporation, at least insofar as water service for the town and its own inhabitants within its own borders is concerned." Id. p. 37.

P. L. 1969, C. 117, provides for the creation of a Boothbay Harbor Water & Sewer District upon the approval of the voters of the town of Boothbay Harbor. In fact, the Boothbay Harbor Water & Sewer District has never been created.

A Boothbay Harbor Sewer District has been created under the authority of P. L. 1961, c. 161. The creation of the sewer district does not change the facts recognized by our Maine Supreme Judicial Court in The Inhabitants of Boothbay v. The Inhabitants of Boothbay Harbor, supra, that the town of Boothbay Harbor as a public municipal corporation owns, maintains, and operates its own water system.

It must follow that the employees of the Boothbay Harbor Water System are employees of the town of Boothbay Harbor and are not employees of a separate juristic entity.

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