

MAINE STATE LEGISLATURE

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May 26, 1967

E. L. Walter, Executive Secretary

State Retirement System

George C. West, Deputy

Attorney General

P. L. 1967 - Chapter 59

FACTS:

The above was an emergency enactment signed by the Governor on March 16, 1967 becoming effective the same day. Portions of the law relate to the investment of Retirement System Funds. Generally speaking, the Board of Trustees is authorized to contract with a New England or New York City bank fiduciary to handle the investment of its funds.

It is assumed that it will take some months to select a bank and prepare a contract. In the meantime, there are funds which should be invested.

QUESTION:

Does the Board of Trustees have authority to make so-called permanent investments pending the selection of and signing a contract with a bank fiduciary?

ANSWER:

Yes.

OPINION:

Public Law 1967 Chapter 59, section 4, amends 5 M.R.S.A. § 1031, subsection 15, by repealing the present provision and replacing it with a new subsection. The new subsection states in part:

"The board of trustees shall employ a bank fiduciary located . . . and may employ other investment counsel or advice and other expert professional or other assistance as may be necessary or appropriate to aid in carrying out its functions."

May 26, 1967

Also, the first sentence of the second paragraph of the new subsection states that "the board shall have the power to enter into a contract with the bank fiduciary to carry out the investment functions of the board."

From the foregoing we conclude that the legislature recognizes that one of the functions of the board of trustees is the investment of the retirement funds. We are aware that contracts with bank fiduciaries cannot be written and signed overnight.

We also recognize that funds are constantly available for investment. The board would be remiss in its duties to the persons who look to the retirement funds for future living if it allowed funds to remain idle while negotiating contracts.

We also recognize that no investments are "permanent." An investment folio will change over a period of time. The board should use its best collective judgment about investments until a bank fiduciary is selected.

George C. West
Deputy Attorney General

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