

# MAINE STATE LEGISLATURE

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June 16, 1967

E. L. Walter, Executive Secretary

Retirement System

George C. West, Deputy

Attorney General

**Per Diem Pay for Trustees**

**FACTS:**

The 103rd Legislature enacted as an emergency measure Chapter 59 of the Public Laws, An Act to Revise the Retirement System Law. Section 2 of this Act amended Title 5, § 1031, subsection 2, so that it now reads:

"Expenses. The trustees shall serve without compensation but they shall be reimbursed from the funds of the retirement system for all necessary expenses that they may incur through service on the board of trustees, except that those trustees appointed by the Governor, or those who are not on administrative leave, shall be entitled to a payment of \$35 per diem in addition to expenses when engaged in the performance of authorized retirement system duties."

The portion of the above section relating to payment of per diem is new. The trustees are concerned about the payment of the per diem to those trustees who represent the Maine Teachers Association, the Maine State Employees Association, Maine Municipal Association, and Retirees.

**QUESTION:**

What proof or method may the trustees use to determine if the members representing the Maine Teachers Association, the Maine State Employees Association, Maine Municipal Association, and Retirees are on administrative leave while attending a meeting or whether such members are entitled to the per diem pay set forth above?

**ANSWER:**

See Opinion below.

**OPINION:**

The method of determination as to whether the four individuals concerned in this matter are on administrative leave or whether they are entitled to the stated per diem is a matter entirely to be handled by the Board of Trustees.

Title 5, § 1031, subsection 5, provides:

"Subject to the limitations of this chapter, the board of trustees shall, from time to time, establish rules and regulations for the administration of the funds created by this chapter and for the transaction of its business."

The new provisions of section 1031, subsection 2, state that the per diem and expenses come from the funds of the Retirement System. It can well be said that the determination of whether or not certain members are on administrative leave or are entitled to per diem is a part of the administration of the funds as well as the transaction of the board's business.

In short, the board may make such rules and regulations for the determination of the question asked as it decides proper.

George C. West  
Deputy Attorney General

GCW:H