

MAINE STATE LEGISLATURE

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February 12, 1974

William G. Blodgett, Exec. Director

Retirement

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Attorney General

Applicability of \$100 per month Minimum (5 M.R.S.A. § 1121, sub-§ 2A(4))
And Cost of Living Plan Increases (5 M.R.S.A. § 1128) to Former Teachers
With 10 Years of Service.

This replies to your memo of January 31, 1974. You state that C. 144, P & S L 1971, and C. 140, P & S L 1973, granted to certain specified former teachers a retirement benefit of \$80 per month because of their former service of 10 or more years, all before 1924, prior to any eligibility for membership in a State retirement system.

You ask whether or not Section 7, Chapter 542, P.L. 1973, raising the \$80 minimum to a \$100 minimum, applies to such teachers as are named in the above-mentioned Private and Special Laws. The answer to that question is affirmative. Section 7, Chapter 542, P.L. 1973, amended 5 M.R.S.A. § 1121, sub-§ 2A(4) to read:

"Any member who has 10 or more years of creditable service at retirement shall be entitled to a minimum of \$100 per month, further any former state employee or teacher who had 10 or more years of creditable service and who is receiving a retirement allowance including such adjustments as have been provided by section 1128, which is less than \$100 per month, shall be increased to \$100 per month the first day of the month following the effective date of this Act."

Your memo states that the specified teachers have the requisite 10 years of service, and this statutory provision plainly applies to any "former teacher" with such service who is receiving a retirement allowance less than \$100.

You also ask whether or not 5 M.R.S.A. § 1128, "Cost of Living Plan for Retired Persons," increases are applicable to such persons as are specified in the above-mentioned Private and Special Laws. The answer to that question is also affirmative. The language in the above-quoted 5 M.R.S.A. § 1121, sub-§ 2A(4) expressly includes "former teachers" who have 10 years of service and who are receiving a retirement allowance as being within the application of 5 M.R.S.A. § 1128. Furthermore, the language of § 1128 seems to convey an intent to have its provisions broadly applied. The catch phrase of § 1128 refers to "retired persons"; the first sentence of § 1128 reads:

"Adjustments in the retirement allowances being paid to former state employees, teachers or beneficiaries of either shall be made in accordance with the following tabulation and shall become effective on the first day of the month following September 3, 1965."

AN INFORMAL OPINION

William G. Blodgett, Exec. Director

-2-

February 12, 1974

It is also noted that the emergency preamble in the two mentioned Private and Special Laws conveys a clear legislative intent to accord to these specified former teachers treatment equal to members of the retirement system who have 10 years of service.

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AN INFORMAL OPINION