

MAINE STATE LEGISLATURE

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May 9, 1974

W. G. Blodgett, Executive Director

Maine State Retirement System

Charles R. Larouche, Assistant

Attorney General

Contribution Rate of Policemen and Firemen Employed by
Participating Local Districts

This replies to your memorandum of May 6, 1974, concerning the subject.

You state that some participating local districts have elected for their firemen and policemen the benefit plan specified in 5 M.R.S.A. § 1121, subsection 1A and B and subsection 2A, as that plan was amended by Chapter 542, P. L. 1973.

I understand your question to be whether or not the District's election of this plan requires the firemen and employees covered by such plan to contribute to the System at the rate of 6½%. The answer to that question is affirmative.

As indicated in my informal memorandum opinion to you dated May 7, 1974, the District can elect any of several plans specified in Chapter 101, Title 5, in lieu of the general plan provided in 5 M.R.S.A. § 1121, subsections 1A and B, and 2A. In this case, the District has elected the general plan and it and its employees are bound by all of its provisions. The correlative provision to the benefits provided in the "general plan" (5 M.R.S.A. § 1121, sub-§§ 1A and B and 2A) is the general employees' contributions provision in 5 M.R.S.A. § 1095; that provision states that:

"Each member shall make a contribution of 6.5% of earnable compensation."

Employees of participating local districts become members of the State Retirement System under 5 M.R.S.A. § 1092, and subsection 7 thereof provides:

"The actuary of the retirement system shall compute the rates of contribution payable by employees, who become members under this section, in the same manner as if they were state employees . . ."

AN INFORMAL OPINION

May 9, 1974

Accordingly, if the district has elected for its firemen and policemen the general plan under § 1121, sub-§§ 1A and B and 2A, such employees must contribute the 6½% rate which the statute requires under that plan.

I understand your next question to be whether or not the district can allow each fireman and policeman to select for himself the particular plan that will apply to him. The answer to that question is negative.

Chapter 101, Title 5, clearly imposes the duty upon the "county commissioners, or the city council or corresponding body" to make the decision as to which plan shall apply. See 5 M.R.S.A. § 1092, subsections 1 through 4, and 5 M.R.S.A. § 1121, subsection 6.

Since the district must also contribute, in varying amounts, depending upon the plan selected, the governing body could not delegate the power to select the plan to each individual. Furthermore, the statute does not authorize the District to apply different plans to a single classification of employees. See my informal memorandum opinion to you dated May 7, 1974.

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Assistant Attorney General

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AN INFORMAL OPINION