

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date July 25, 1975
Philip R. Gingrow, Asst. Exec. Dir. Maine State Retirement System
To O. W. Siebert, State Budget Officer Dept. Bureau of the Budget
From Joseph E. Brennan J.E.B. Dept. Attorney General
Subject Health Insurance premiums for retired state employees

The memorandum of July 11th from the State Retirement System to this office asks two questions:

1. Does Section T of Chapter 90 of the Private and Special Laws of 1975 require that the Maine State Retirement System pay 100% of the retirees group health insurance premiums?
2. If the answer to No. 1 is in the affirmative, what is the source of funds for making such payment?

The answer to the first question is that Section T of Chapter 90 P. & S. Law of 1975 provides that retirees are entitled to payment of the full 100% of their group health insurance premiums.

Title 5 M.R.S.A. § 285-1 makes eligible for payment of group health insurance premiums present state employees, persons who were retired on August 26, 1968 and covered under insurance programs, and persons who have retired since that date. The last significant amendment to section 285, P.L. 1969, c. 588, amended Subsection 4 to specify 50% payment of cost. It applied to both present state employees and retirees. The current amendments to § 285 have the same broad application. Subsection 4 which limited state contributions to 50% is repealed. The effect of repeal of Subsection 4 by Section T is that the State will pick up the full cost of coverage of all persons eligible under Section 285.

The source of funds for payment of the additional state share of retiree premiums would be the same source of funds which currently pays the 50% state share, the Expense Fund provided pursuant to 5 M.R.S.A. § 1062 Sub. 4 and 5 and contributions from state agencies thereto. As indicated in the footnote to Private and Special Laws 1973, Chapter 100 discussing the 50% share: "future costs of this nature (shall) be included in the percentage charge for retirement system costs." Section T makes no distinction between retirees and employees, and without such, no distinction can be assumed.

Thus, the State by virtue of enactment of Section T of Chapter 90 P. & S. Laws of 1975 and its repeal of Subsection 4 of 5 M.R.S.A. § 285 must pay the full cost of state retirees insurance premiums in the same manner as it pays the full cost of state employees insurance premiums. The source of these funds is to be the same as the source of funds which previously paid the 50% costs of retirees premiums.

The materials you have provided indicate that the appropriation provided pursuant to Subsection T may not have been intended to cover state contributions to retirees insurance premiums. This does not change the effect of the amendments to Sec. 285. It does, however,

raise a problem of payments from state agencies to the Expense Fund provided by 5 M.R.S.A. § 1062. Section 1583 of Title 5 provides; "No agent or officer of the state or any department or agency thereof, whose duty it is to expend money under an appropriation by the legislature, shall contract any obligation on behalf of the state in excess of the appropriation." Therefore, if money, or not enough money, has been provided by appropriation for state agencies to increase their contributions to the State Retirement Fund pursuant to Sec. 1062, a further appropriation from the general fund and other funds may be needed before the end of the biennium to provide necessary funds.

The memorandum from the State Budget Office, dated July 18, 1975, asks three questions in addition to those amended above.

1. Is the amount appropriated from the General Fund in Chapter 90 less the \$200,000 for the University of Maine and \$12,000 for Maine Maritime Academy of \$500,000 intended to cover the additional cost for all state employee members regardless of the source of their funding - General Fund, Highway Fund or other Revenue Funds?
2. If the amount appropriated is for General Fund costs only, what is the source of funds for costs to the Highway and Other Revenue Funds?
5. Can the State Budget Officer or any other official authorize the increased percentage now requested by the Maine State Retirement System when the increase has not been budgeted for?

The limited legislative history that is available provides no basis for distinguishing among state employees, or between state employees and retirees as to eligibility for 100% payments. For example, the provision cited in the memo that amends Subsection 7 of Section 285 to "pay 100% of only the employee's share of this insurance" simply changes 50 to 100 but otherwise is identical to existing law.

However, the \$500,000 appropriation would only cover those agencies and personnel funded in whole or in part from the general fund. Employees whose salaries are entirely dependent on special funds such as the Highway Fund, or Federal assistance and who are not authorized under personnel levels approved in the General Fund budget cannot have any of their compensation, including insurance costs, paid from the General Fund. Thus, though such employees are eligible for 100% payments, there is no money specifically appropriated to pay such costs. To the extent additional funds are available in special fund accounts for personnel compensation, these funds may be allocated to pay insurance costs. Where no such extra funds are available, an additional appropriation must be sought. However, in closing we emphasize again that repeal of Subsection 4 of Section 285 makes the state responsible for 100% payment of health insurance costs of all state employees and retirees, and funds should be provided for these payments under current personnel compensation appropriations in special funds if at all possible.