

# MAINE STATE LEGISLATURE

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December 17, 1975

William G. Blodgett, Executive  
Director  
Donald G. Alexander, Assistant

Maine State Retirement System  
Attorney General

Interpretation of Earnable Compensation under 5 M.R.S.A. § 1001, sub-§ 9.

Your memo of December 15, 1975, requests an opinion as to whether a community is required to pay into the State Retirement System based on the full rate of "earnable compensation," as defined in 5 M.R.S.A. § 1001-9, or if that community may elect to contribute into the Retirement System according to the base pay rate of its employees. With your memo you have included a letter from an attorney suggesting that the Town of Lincoln is only required to contribute at the base pay rate and citing 5 M.R.S.A. § 1092-1 in support thereof.

The Retirement law clearly and specifically requires that contributions be made on the basis of "earnable compensation" and nothing less. This requirement is specifically stated at 5 M.R.S.A. § 1095 which requires that: "Each member shall make a contribution of 6.5% of earnable compensation." The flexibility suggested in Section 1092 relates to various optional plans, such as death benefits, which local communities may elect to include in addition to the basic retirement program. However, the requirement of payment of "earnable compensation" is part of the basic retirement program. The type of payments listed in the last paragraph of your memo including overtime, vacation pay, sick leave pay and holiday pay are part of the base "earnable compensation."

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DONALD G. ALEXANDER  
Assistant Attorney General

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