

MAINE STATE LEGISLATURE

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February 25, 1976

William G. Blodgett, Executive Director

Maine State Retirement System

Donald G. Alexander, Assistant

Attorney General

Withdrawal from Maine State Retirement System by a participating district

Your memorandum of February 3, 1976, poses a question of whether a participating local district whose employees were contributing members of the system could take an action to withdraw from membership under 5 M.R.S.A. §1092, sub-§14.

The answer is that a participating local district cannot, on its own motion, withdraw from the Maine State Retirement System while it remains a unit with employees and remains otherwise eligible for inclusion in the retirement system. Sub-section 14 is directed to the situation where a participating local district "ceases to be an employing unit eligible for inclusion in the retirement system." This appears to contemplate a situation where, as addressed in the opinion of this office of December 15, 1975, an entity ceases to have employees and thus ceases to be an employing unit, or, alternatively, the situation where by legislative act or otherwise, the existence of a participating local district is terminated or its status is changed so that it would no longer be eligible to be a participating local district. A district which continues to have employees and continues to be in the status of an employing unit eligible for inclusion in the Maine State Retirement System would not meet these criteria and thus that unit could not, but its own action, withdraw. Thus, the status of the law before enactment of P.L. 1975, Chap. 622 that there is no provision in the statute for a local unit, but its own action to withdraw from the M.S.R.S. while it remains an employing unit eligible for inclusion in the M.S.R.S. remains in effect.

DGA:jg