

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date March 19, 1976

To W. G. Blodgett, Ex. Director

Dept. Maine State Retirement System

From Donald G. Alexander, Deputy

Dept. Attorney General

Subject Membership Entitlement for Participating District Employee Under
5 M.R.S.A. Section 1092, Subsection 5

This responds to your memo of March 17, 1976. The fact situation presented in that memo is as follows: An employee was hired by a local district in 1959. The local district had been participating in M.S.R.S. since 1956. The employee was not made aware of her entitlement of membership in M.S.R.S. until 1969 at which time she joined the system. Questions have been raised about the manner in which the town should pay its share of this employee's retirement system costs, if it should pay them at all.

Specifically, the questions were:

1. Do you feel that this person is entitled to creditable service for the period of 1959 through 1969 as an employee of the town of East Millinocket upon payment of her contribution together with applicable interest? The answer is in the affirmative. 5 M.R.S.A. § 1092-5 requires that all local employees except those in the employ of the district at the time it joined the retirement system, be members of the retirement system except for specifically exempt classes. The employee in question was not a member of a specifically exempt class and she joined the district after the district joined the system. Therefore by law she was required to be a member of the district and she is entitled to credits for that period. The oversight of the district cannot deny her those credits as her contributions have been made.

2. Do you feel that in view of the actuarial assessment process explained in the letter to the town that the necessity of having the town contribution for the employee subject of appropriate action at town meeting is eliminated? The actuarial assessment process is an appropriate way to collect payments due from towns. However, this office cannot mandate the manner in which the town makes that payment. If it chooses to do so by a special appropriation at town meeting, it may. Otherwise it can make the payment through the normal way in which the town has selected to pay its share of retirement system costs.

DGA/mf