

# MAINE STATE LEGISLATURE

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May 18, 1976

W. G. Blodgett, Executive Secretary

Maine State Retirement System

Donald G. Alexander, Deputy

Attorney General

Participating District Personnel Rules and Applicability under M.S.R.S.

Your memorandum of April 29, 1976, poses two questions regarding potential statutory conflicts with local personnel rules.

Question 1: Is there any statutory conflict between the retirement law and a local district proposing a personnel rule which would make retirement mandatory at age 55 for employees of the local district? There would appear to be a conflict between a local requirement compelling employees to retire at 55 and the retirement law. Pursuant to the retirement law a member in normal service could not begin receiving payments until age 60. The result of forcing a person to retire at age 55 would be a five-year gap before that person was eligible to receive benefits under current law (5 M.R.S.A. § 1121-1). If these benefits were the only retirement benefits available to the employee, the mandatory 55-year retirement age would create a rather unconscionable result for the employee. By the provisions of 5 M.R.S.A. § 1092, local districts join the M.S.R.S. on the state's terms. One of those terms is a 60-year retirement age. Thus, the first question is answered in the affirmative.

Question 2: Is there any statutory conflict with a local district adopting a personnel rule which excludes employees from membership in the Maine State Retirement System until attainment of age 25. Title 5 M.R.S.A. § 1092-5 specifically requires that all employees of a participating local district, except those exempted for certain limited reasons, be members of the Maine State Retirement System. Considering this provision, a local district cannot exclude employees of any age from membership in the Maine State Retirement System solely on the basis of age.

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