

# MAINE STATE LEGISLATURE

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October 22, 1976

W. G. Blodgett, Executive Director

Maine State Retirement System

Donald G. Alexander, Deputy

Attorney General

Computation of 6.4% retirement benefit increase

This responds to your memoranda of September 20, 1976, and October 4, 1976, regarding application of cost-of-living benefits under 5 M.R.S.A. § 1128. Additionally, this confirms my oral advice to the Board of Trustees of the Maine State Retirement System given October 14, 1976.

Specifically, it was my advice that the interpretation of 5 M.R.S.A. § 1128, as amended by P.L. 1975, Chapter 778, and as further impacted by P. & S.L. 1975, Chapter 147, Part D, § 9, which the Board of Trustees adopted at their meeting of July 8, 1976, and which was generally published by memorandum from the Executive Director, dated September 1, 1976, is correct. Specifically, it was my interpretation that Chapter 778 applied to those persons retiring on or before July 1, 1976. As Chapter 747 grants a 6.4% benefit to all persons other than those whose benefits would be increased by Chapter 778 - which limited the effect of Chapter 147 - all persons retiring after July 1, 1976, but prior to November 1, 1976, will be eligible for the 6.4% increase as you indicate.

Additionally, you have posed the question as to whether persons who retire within 12 months after November 1, 1976, may be eligible for the benefit. As you are aware, the retirement law provides that persons who retire within 12 months of the effective date of a cost-of-living adjustment receive a benefit which "shall not be less than the service retirement allowance, including such retirement allowance adjustment that would have been payable if the member had retired on the date immediately preceding the date of such adjustment." 5 M.R.S.A. § 1128. Here the date immediately preceding the date of such adjustment is the date which immediately precedes the first pay period in November. However, it must be noted that this adjustment to allow persons retiring subsequent to November 1, 1976, to benefit from the 6.4% increase would only apply to those persons who were eligible to retire on the date immediately preceding the effective date of the retirement adjustment. 5 M.R.S.A. § 1128, last paragraph.

DONALD G. ALEXANDER  
Deputy Attorney General

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