

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Retirement from Service Credits

5 M.R.S.A. 1092-11

5 M.R.S.A. 1092-5

STATE OF MAINE

Inter-Departmental Memorandum Date December 2, 1976

To W. G. Blodgett, Executive Director Dept. Maine State Retirement System

From Donald G. Alexander, Deputy Dept. Attorney General

Subject City of Bangor Obligation Regarding Prior Service Credits

This responds to your memorandum of November 19, 1976, by which you inquire whether the City of Bangor is obligated to grant prior service credits in a particular case. We advise that you have indicated to the City of Bangor that they are obligated to grant such prior service credits, and ask whether you have correctly interpreted the law.

FACTS:

The materials you have provided indicate the following facts: The City of Bangor entered the Maine State Retirement System in 1947. At that time Bangor adopted a plan which provided that employees would be granted prior service credits for the period prior to July 1, 1947, and specified the method of computation for payment for those credits. The person in question was employed by the City of Bangor from 1935 to 1943 at which time he left city employment for military service. After 1945 the person entered private industry. The person was then reemployed by the City of Bangor in February of 1966, and continues to be employed by the City. The person has asked for prior service credits for the years 1935 to 1943.

QUESTION:

Under the facts above-stated, should the individual receive prior service credits?

ANSWER:

The retirement statute itself does not require that the individual in question receive prior service credits.

DISCUSSION:

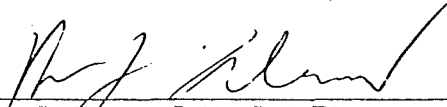
Initially, it must be recognized that the question of prior service credits in this case involves an individual working for the same jurisdiction, so the difficult question of transfers of service credits from one jurisdiction to another which has been addressed in previous opinions are not raised. 5 M.R.S.A. § 1092-11. Accordingly, in this case the provisions of 5 M.R.S.A. § 1092-5 apply. Subsection 5 indicates that participating local district employees who are members of the Maine State Retirement System and who were employed by the district on the date the district joined the system are entitled to prior service credits under certain conditions. Those conditions would appear to be met in

W. G. Blodgett, Executive Director
Page 2
December 2, 1976

this case as the City of Bangor has specified the manner granting prior service credits in its plan when it entered the Maine State Retirement System. Accordingly, it would appear that employees of the City of Bangor in service on July 1, 1947, would be entitled to prior service credits. However, as this employee was not in the service of the City of Bangor on the date at which the City joined the Retirement System, July 1, 1947, it would not appear that the employee is entitled to prior service credits under 5 M.R.S.A. § 1092-5.

There maybe separate provision in the plan of the City of Bangor to make such individual eligible. However, such provision does not appear in the materials provided. The provisions of 5 M.R.S.A. § 1092-11 do not apply to this case. Any grant of prior service credits such as are requested and are the subject of this case is not mandatory under the Maine State Retirement Law.

The individual in question was not a member of the military but had entered private business prior to July 1, 1947. Therefore, no question of military status at the time of the City adopting a plan and joining the Retirement System is raised.



DONALD G. ALEXANDER
Deputy Attorney General

DGA:mfe