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Retirement Local District System
5 M.R.S.A. 1001 (11-A)

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February 13, 1978

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

From: Kay R. H. Evans, Assistant Attorney General

Re: Eligibility of a Housing Authority formed under the Provisions of 30 M.R.S.A. § 4552, et seq. to Participate in the Retirement System as a Local District.

Your memo of January 13, 1978, asks whether a housing authority created under the provisions of 30 M.R.S.A. § 4552, et seq. is eligible to participate in the Retirement System as a local district in accordance with 5 M.R.S.A. § 1001(11-A). The answer is affirmative.

OPINION:

Title 30 M.R.S.A. § 4552, et seq., provides for the establishment of local housing authorities. Section 4601 creates "in each city and in each town a public body politic and corporate known as the 'Housing Authority' of the city or town." Such housing authorities exist in name only until activated by a resolution of the governing body or town meeting. Once activated, the authority possesses full powers, specified in § 4651, to carry into effect the broad purposes of the act, outlined in § 4553. Authorities' proposed projects and plans for financing may be reviewed by the governing body or town, § 4651(10), but no power to modify or veto such projects or plans is given.

The question presented is whether such a housing authority qualifies as a local district under 5 M.R.S.A. § 1001(11-A), so that its employees may participate in the Retirement System.

Among the entities which qualify under sub-§ 11-A as a local district is an "incorporated instrumentality of the State or one or more of its political subdivisions." Housing authorities constituted under these provisions of Title 30 are incorporated by the terms of that statute. Such a housing authority may be an instrumentality of the State which creates it or of the political subdivision which activates it or of both, in that they perform, by delegation, functions which could be performed by either or both the State and the political subdivision. In any event, such a housing authority is within the scope of the definition and eligible to participate in the Retirement System as a local district.

Kay R. H. Evans

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