

MAINE STATE LEGISLATURE

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Retirement Local District Adoption of Provisions
STATE OF MAINE

Inter-Departmental Memorandum Date June 14, 1978

To Philip Gingrow, Asst. Exec. Dir. Dept. Maine State Retirement System

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

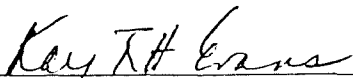
Subject Adoption of Repealed Provisions of the Retirement Law by Participating Local Districts

Your memo of June 1, 1978, asks for an opinion as to the adoption by a participating local district of a provision of the retirement law which had been repealed and replaced prior to the participating local district's vote to adopt.

Because the effective date of the repeal predated the district's vote to adopt, that vote is of no effect. That is, by its vote, the participating local district has adopted neither the repealed provision nor its replacement.

The provision voted on was, after the effective date of the repeal, no longer legally available to be adopted.^{1/}

Nor, in this case, does the replacement provision automatically take the place of the repealed version, so that the participating local district's vote effectively adopts the replacement. The two provisions establish disability retirement benefit schemes, the terms and costs of which are significantly different. Local districts participate in the Retirement System on the basis that they retain maximum control over their costs, consistent with fundamental fairness among their employees and among System members in general. In this instance, the district's vote reflected its intention to assume the obligation for a particular form of disability benefits and its agreement to pay the costs associated with that form, 5 M.R.S.A. § 1094(12). The district cannot be held to have adopted a different set of obligations and costs without voting specifically thereon.



KAY R. H. EVANS
Assistant Attorney General

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^{1/} The provision of course retains legal validity and force insofar as concerns participating local districts voting to adopt it prior to repeal.