

# MAINE STATE LEGISLATURE

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R. Thomas J. Hooley, Attorney, 57-63  
5 M.R.S.A. 1001-11-A  
STATE OF MAINE

Inter-Departmental Memorandum Date July 27, 1978

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

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

Subject Status of Bangor Housing Authority Under Maine State Retirement System

Your memo of July 3, 1978, states that employees of the Bangor Housing Authority are presently members of the Maine State Retirement System under the City of Bangor's local district plan. The City has raised the question whether the Housing Authority should participate separately in the Retirement System as a local district. In my opinion, the relevant laws permit Retirement System membership by Housing Authority employees either through the participation of the City of Bangor as a local district or through the participation of the Housing Authority itself as a separate local district. Nothing in the retirement law mandates a required or preferred form and scope for a local district, so long as one of the definitional criteria of 5 M.R.S.A. 1001(11-A) are met.<sup>1/</sup>

Nor does the law under which the Housing Authority was established, 30 M.R.S.A. § 4551 et seq. mandate, expressly or by implication, the form of participation in the Retirement System by Housing Authority employees. The general powers of an authority established under the statute doubtless permit it to join the Maine State Retirement System as a participating local district, offering membership to its employees through its participation. See 30 M.R.S.A. § 4651. On the other hand, the arrangement described in your memo whereby Housing Authority employees are Retirement System members through the participation of the municipality as a local district, is permitted by 30 M.R.S.A. § 4657(5) and (8) which provide respectively the following.

§ 4657. Any state public body<sup>2/</sup> may upon such terms, with or without consideration, as it may determine:

5. Services. Cause services to be furnished to the housing authority of the character which such state public body is otherwise empowered to furnish; and

8. Aid and cooperation. Do any and all things, necessary or convenient to aid and cooperate in the planning, and undertaking, construction or operation of such projects.

<sup>1/</sup> As noted in a previous opinion, more than one of the definitional criteria may be met by a given entity, and in fact housing authorities organized under 30 M.R.S.A. § 4551, et seq. probably do meet at least two of the criteria. See Opinion of February 13, 1978.

<sup>2/</sup> "State public body" is defined at 30 M.R.S.A. §4552(14) as "any city, town, district or other political subdivision of the stat

In brief, while the Housing Authority could have been established as a local district, nothing in the applicable laws makes such establishment either necessary or more appropriate than the existing arrangement.



KAY R. H. EVANS  
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