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JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

November 7, 1978

To: W. G. Blodgett, Executive Secretary, Maine State Retirement System
From: Kay R. H. Evans, Assistant Attorney General
Re: Benefit Computation under P.L. 1977, c. 658

This responds to your request for an opinion regarding the computation of benefits for employees of the Maine Turnpike Authority who leave the Authority on account of its dissolution and who then become employed by the State.

The statutory provisions for dissolution of the Maine Turnpike Authority are set forth in P.L. 1977, c. 658, 1/ of which Section 1 is here relevant.

1/ Chapter 658 resulted from the efforts of the Joint Standing Committee on Transportation, acting pursuant to a study order from the first regular session of the 108th Legislature. Three L.D.'s - L.D. 2124, L.D. 2125, and L.D. 2126 - came out of the committee. L.D.'s 2124 and 2126 were reported ought not to pass; L.D. 2125 was reported ought to pass in new draft. The new draft, L.D. 2157, amended by H. 1096 and S. 511, was enacted at the second regular session of the 108th as Chapter 658. L.D. 2124 had no provisions relevant to the question asked by your memo. L.D.'s 2125 and 2126 covered the retirement issue in language substantially like that now found in Section 1 of Chapter 658. In L.D. 2157, which was eventually enacted, the retirement language is identical to that in Chapter 658. The statement of fact in each L.D. containing retirement language states that one purpose of the bill is to protect the retirement rights of the Maine Turnpike Authority employees. There is no other legislative history relevant to the question asked. The Turnpike Authority's participation in the Retirement System has been as a local district.

Your specific question is:

. . . in the case of the person who was employed by the Turnpike Authority whose services are terminated prior to the dissolution of the Authority, and who becomes employed as a state employee, what will be the average final compensation basis in computing the retirement allowance:

1. The high three-year salary as a state employee;
2. The high three-year salary regardless of where the employment took place; or
3. The (Turnpike Authority) average final compensation applied to the service rendered the (Authority) and the state average final compensation applied to the service rendered as a state employee.

In my opinion, it is clear from the language of Chapter 658 that with respect to retirement the Legislature intended that Turnpike Authority employees who leave the Authority on account of its dissolution are to be treated as if they had always been State employees. Section 1 reads as follows:

E. Notwithstanding this subsection, all funds held by the Maine State Retirement System to the credit of employees of the Maine Turnpike Authority shall be transferred on the records of the Maine State Retirement System to the status of a state employee. Creditable service rendered by these employees shall be the same as if the employment had been rendered as state employees.

Former employees of the Maine Turnpike Authority who have retired under the Maine State Retirement System shall have their creditable service under the Maine State Retirement System transferred, and payment of retirement benefits shall be continued at the same level as would be paid as if those retired employees had retired from state service.

Funds held by the Maine State Retirement System on account of the Maine Turnpike Authority, which were paid by the authority, shall be held by the Maine State Retirement System to pay benefits to retired persons and for future retirees. If, after a review of the Actuary of the Maine State Retirement System, it is determined that additional funds are required to finance in full the accrued retirement benefits for all employees of the Maine Turnpike Authority, then the Maine Turnpike Authority shall provide funds necessary to fulfill this obligation before the Maine Turnpike Authority is dissolved.

Former employees of the Maine Turnpike Authority and those employees who are not transferred to the Department of Transportation shall be treated in the same manner as if they had been state employees with respect to Maine State Retirement System rights and benefits.

The same benefit rights and protection shall apply to beneficiaries under the survivor benefit program and beneficiaries of former employees as are outlined in this paragraph. (emphasis supplied)

Thus, the employment of those who leave the Maine Turnpike Authority and then enter State service is to be seen as a unitary employment history. The highest three years of that history taken as a whole would be the average final compensation basis of such an employee for the purpose of computing retirement benefits.

KAY R. H. EVANS
Assistant Attorney General

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