

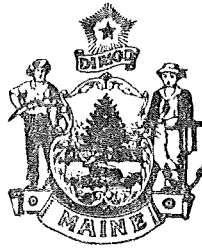
MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



Lab.
81-23

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

February 26, 1981

Andrew X. Akins
Tribal Administrator
Penobscot Nation
Community Building
Indian Island, Maine 04468

Re: Entitlement of Penobscot Nation Public Safety
Officers to Participate in Maine State Retirement System.

Dear Mr. Akins:

You have requested an opinion from this office on the eligibility of public safety officers employed by the Penobscot Nation (the "Nation") for membership in the Maine State Retirement System.^{1/} It is our opinion that although these persons do not qualify for the Retirement System as a consequence of their status as public safety officers, they may become members if the Penobscot Nation joins the Retirement System as a participating local district.

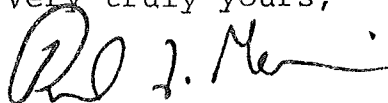
Since the effective date of P.L. 1980, c. 732 (30 M.R.S.A. §§ 6201-14), the so-called Maine Implementing Act, the status of the Penobscot Nation has been, for most purposes, that of a municipality. 30 M.R.S.A. § 6206(1). A review of the Implementing Act, the Federal Settlement Act and the history underlying their enactment reveals no reason why the Nation should not be treated as a municipality for purposes of the Maine State Retirement System statute. It follows that employees of the Nation are employees of a municipality, and therefore they may not join the System independently since such membership is limited to employees of the State and teachers. 5 M.R.S.A. § 1001(10).

^{1/} We understand that the Penobscot Nation employs several policemen and wardens whose duties are similar to those of municipal police.

However, since the Nation is a municipality for retirement purposes, it may join the System as a participating local district under 5 M.R.S.A. § 1092(1) and 5 M.R.S.A. § 1001(11-A) ("Local district" includes municipalities). If it does so, all of its current employees, including public safety personnel, will have the option of joining the System, and persons employed by the Nation after the effective date of its participation will be required to join. 5 M.R.S.A. § 1092(5). Finally, a number of "special plans" offering benefits different from those standard to the System generally are available to participating districts. The System should be contacted directly for further information in this area.

We hope this information is useful. Please feel free to contact this office if you have any further questions.

Very truly yours,



PAUL F. MACRI
Assistant Attorney General

PFM/ec