

Teachers Retirement Fund Law, Construed. Retirement of Teachers, When. Expenses of Teachers' Retirement Law. How Paid.

The fund created by the Teachers' Retirement Act may be

drawn upon for the payment of expenses to give full operation to the Act.

June 2, 1915.

Hon. H. A. Davee,
Chairman Public School Teachers' Retirement Salary Fund Board,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of May 25th, making inquiry: as to whether the expenses incident to the administration of the provisions of Chapter 95 of the Laws of 1915, relative to the Teachers' Retirement Fund, may be paid from the fund thereby created, or whether an independent and separate appropriation is necessary?

The Act itself requires duties to be performed which will necessarily incur expense, but does not specifically state whether such expenses may or may not be paid from the fund named in the Act. By the provisions of Section 7, the Retirement Salary Fund Board is required to discharge certain duties, among them being to invest the moneys belonging to the permanent fund, and it is specifically provided that the expenses incident to such investment shall be paid from the permanent fund. The Board is also directed to appoint a secretary, and to prescribe his duties, and also to conduct investigations, subpoena witnesses, compel their attendance, and to transact other business, which necessarily incurs expense. In Section 9 of the Act we find the provision relative to the holding of the meetings, and the direction of the State Superintendent to permit the use of his office for that purpose, and to employ additional help, and to make expenditures for stationery, stamps, etc., as may be necessary for the creation, maintenance and enforcement of this Act, and then this section concludes with the statement that the legislature shall be requested to make appropriations as may from time to time be deemed necessary, but no appropriation was made. Hence, unless the fund created by the Act may be drawn upon, the Act itself becomes inoperative. We cannot presume that it was the intent of the legislature to enact a law which should be inoperative, or that its operation should be dependent upon legislative donations subsequently made. A fund is created by the Act for the purpose of carrying into operation the provisions and intent for which the law was enacted. The concluding clause of Section 9 is merely directory, and the same direction there given might be used with reference to any other Act of the legislature, whether expressed in the Act or not; that is, any Board charged with the administration of any law, has full authority to make any request of the legislature, whether it is so nominated in the Act or not.

I am of the opinion that the provisions of this Act are, and should be operative, and that the fund created by the Act may be drawn upon for the payment of expenses necessary to give full operation to the Act.

Yours very truly,

J. B. POINDEXTER,

Attorney General.