

Opinion No. 116.

State Examiner—Examiner—Public Employees Retirement System—Retirement System—Highway Patrol System—Duties of State Examiner.

Held: It is the duty of the State Examiner to examine at least once each year the books and accounts of the Highway Patrol System and the Public Employees' Retirement System.

January 18, 1946.

Mr. W. A. Brown
State Examiner
State Capitol
Helena, Montana

Dear Mr. Brown:

You have requested my opinion asking if it is the duty of the State Examiner to make an annual examination of the books and records, receipts and disbursements of the Highway Patrol System, created by Chapter 37, Laws of 1945, and the books, records, receipts and disbursements of the Public Employees' Retirement System, created by Chapter 212, Laws of 1945.

Section 209, Revised Codes of Montana, 1935, creates the office of State Examiner and provides for his appointment by the Governor and confirmation by the Senate and the term for which he shall hold office. Section 210, Revised Codes of Montana, 1935, provides the duties of the State Examiner, which are pertinent to the question here considered. Paragraph 1 provides:

"To examine at least once in each year the books and accounts of the state treasurer, state auditor, secretary of state, clerk of the supreme court, state game warden, register of state land office, and all other state officers having the collection or handling of state money, county treasurers, county clerks, county assessors, district court clerks, county auditors, sheriffs, public administrators, boards of county commissioners of each county, and all other officers and boards whether temporary or permanent, however created and for whatever purpose, having the control, management, collection or disbursement of any public money of any character or description."

Section 3 of Chapter 37, Laws of 1945, creates the Montana Highway Patrolmen's Retirement Board and provides the composition of such board. Section 4 of the act provides that the expenses of the administration of the act shall be paid by the state by appropriation out of the general fund. Section 10 of the act provides for an annual contribution to the fund of ten per cent of all moneys received by the state from collection of motor vehicle drivers' license fees, for a period of ten years.

Section 3 of Chapter 212, Laws of 1945, creates the Public Employees' Retirement System, and Section 14 of the act creates the board of adminis-

tration of said system, provides for the composition of the board, the term of each member, etc. Section 38 of the act appropriates the sum of \$35,000 out of the general fund of the state for administrative expenses for the biennium commencing July 1, 1945, and ending June 30, 1947. This section then provides:

"Hereafter, it shall be the duty of each and every state board, commission, department and institution whose employees are subject to the retirement system created by this act to include in their budget and request for legislative appropriations, an amount necessary to defray the state's part of the costs of this act for employees in their respective departments, and the end that the legislature may make definite appropriation for the cost incurred by each board, department or institution whose employees are within the retirement system created by the act."

It is clear from a reading of the provision of both Chapter 37, Laws of 1945, and Chapter 212, Laws of 1945, the administrative boards created thereby are charged with the "control, management, collection or disbursement" of public moneys. These boards, therefore, come within those, the books and accounts of which the legislature has made it the duty of the State Examiner to audit and examine.

It is therefore my opinion that it is the duty of the State Examiner to examine at least once each year the books and accounts of the Highway Patrol System and the Public Employees' Retirement System.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General