

Attention:

Mr. R. P. Jackson, Secretary

Gentlemen:

You have requested my opinion whether your board may make contributions to the Public Employees Retirement Fund on behalf of member employees for the biennium July 1, 1945 to July 1, 1947, out of monies remaining in your board's funds and unexpended.

Section 3554.6, Revised Codes of Montana, 1935, authorized the Oil Conservation Board to employ such persons as may be necessary to perform the duties that may be required of the board, and to fix their compensation. It provides the total expenditures of the board shall not exceed in the aggregate, during any fiscal year, the amount actually collected under the provisions of Section 3554.14, Revised Codes of Montana, 1935. Section 3554.14 in turn levies a privilege and license tax of three-eighths ( $\frac{3}{8}$ ) of one cent (1c) per barrel on each and every barrel of crude petroleum produced, saved and marketed or stored within the state of Montana.

House Bill No. 325, the general appropriation bill of the Twenty-ninth Legislative Assembly for the period beginning July 1, 1945 and ending June 30, 1947 (pages 579-606, Laws of 1945) provides in Section 2 and Section 3:

"All regulatory boards for which the law provides for a collection of fees and such fees are deposited with the state treasurer, as trust funds, are hereby appropriated for the use of each of the said boards; a sum equal to the amount of their collections, except wherein the law provides for deductions."

The Thirtieth Legislative Assembly enacted Chapter 40, Laws of 1947, to enable all departments, boards, bureaus, commission and other agencies of the state to pay to the Public Employees Retirement Fund out of monies heretofore appropriated and unexpended, or hereafter appropriated, the employer's contribution to the retirement system as provided by

**Opinion No. 46**

**Public Employees Retirement System  
—Employer Contributions—Oil  
Conservation Board, Unexpended  
Funds of**

**Held:** If monies remain in the funds appropriated to the Oil Conservation Board for the biennium, July 1, 1945 to July 1, 1947, under the provisions of House Bill No. 325, Chapter 40, Laws of 1947, authorizes said board to pay the employer contribution to the retirement system from such funds.

July 12, 1947

Oil Conservation Board of the  
State of Montana  
P. O. Box 1122  
Great Falls, Montana

Chapter 212 of the Laws of 1945. Chapter 40, supra, provides in Section 1:

"All departments, boards, bureaus, commissions, and other agencies of the state shall pay to the public employees' retirement fund out of monies heretofore appropriated to them and unexpended during the biennium July 1, 1945, to July 1, 1947, or hereafter appropriated to them a sum equal to the percentage of total compensation paid members of the retirement system and designated in the provisions of Chapter 212 of the laws of the twenty-ninth legislative assembly, 1945."

Chapter 40, supra, by its specific language operates as an amendment to all appropriations for the biennium July 1, 1945, to July 1, 1947, where said appropriations are unexpended by authorizing such appropriations to be used to pay the employer's contribution under the Public Employees Retirement System, and it further authorizes the payment of such employer contribution out of appropriations to be made in the future.

It is, therefore, my opinion, if monies remain in the funds appropriated to your department for the biennium, July 1, 1945 to July 1, 1947, under the provisions of House Bill No. 325, quoted above, Chapter 40, Laws of 1947, authorizes your board to pay the employer contribution to the retirement system from such funds.

Sincerely yours,  
R. V. BOTTOMLY,  
Attorney General