

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date January 15, 1968

To E. L. Walter, Executive Secretary

Dept. Maine State Retirement System

from Phillip M. Kilmister, Assistant

Dept. Attorney General

Subject Effective Date of a Retirement Allowance

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## FACTS:

In your memorandum of December 18, 1967 sent to this office you inquire as to the effective date of retirement allowances relative to two separate factual situations. In one instance it is set forth that a school teacher resigned from active service on September 15, 1967, however, her application for retirement benefit payments was not received by the State Retirement System until October 4, 1967. When the pension payment was calculated, it was calculated from the date of October 4, 1967, rather than September 15, 1967.

In the second factual situation it is stated that a state employee left active state service but was not eligible for a pension until he reached the age of 60. Upon attainment of the age of 60 years the individual filed an application to receive pension benefits but the application was not received by the Maine State Retirement System until 6 months later. In regard to these two distinct factual situations you have asked the slightly rephrased following questions:

### QUESTION #1:

Is the teacher who received active pay only to September 15, 1967, the day of her retirement, entitled to pension benefits from September 16th or from October 4, 1967?

### ANSWER:

September 16, 1967, the effective date of her retirement.

### QUESTION #2:

Is the individual who is eligible for retirement upon the attainment of age 60 entitled to receive pension benefits as of the time he attains age 60, or the time when his application for the receipt of benefits is received by the Maine Retirement System?

January 15, 1968

ANSWER:

On the attainment of his 60th birthday.

OPINION:

The date of retirement is the date upon which a person qualifies or becomes eligible for retirement benefit payments. It is true that the burden of informing the Board of Trustees of the Maine State Retirement System of the fact of retirement is properly imposed upon the retiree and obviously no benefit payments can be authorized by the Board until notice of said retirement is received. Notice of retirement affects the time at which a retiree may receive his benefit payments but it in no manner affects the amount which is due him. Benefits payable under the Retirement System are certain and fixed as of the date of retirement and are not subject to diminution merely because a retiree fails to give prompt notice of the date of his retirement.

Let it be assumed that X retires from state service on January 1, 1968. For some reason he does not notify the Board of Trustees of the Retirement System of this fact until March 1, 1968. Let it be further assumed that he is entitled to a yearly retirement allowance of \$1,200.00 payable in monthly benefit payments of \$100.00 each. X is clearly entitled to the full yearly amount of \$1,200.00 whether or not he makes application for payment on January 1, 1968 or March 1, 1968. To hold otherwise, and make notification of retirement a prerequisite for payment of the full amount of the retirement allowance earned by a retiree, would result in an unfairness to the retiree, the magnitude of which requires no further elaboration.

*Phillip M. Kilmister*  
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PMK/slf