

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

or position. Since a retired state police officer is entitled to one-half of the pay per year that is presently payable to a member of the rank or grade which he held at the time of his retirement, it logically follows that this should include one-half of all of the pay which attaches to said rank or position.

We believe that the state police officer who retired prior to the enactment of the "longevity statute" is entitled to retirement pay based upon years of service in the same manner as his counterpart in active service who retires after the enactment of said longevity statute. To hold otherwise is to perpetrate an inequity upon those state police officers who retired prior to 1964.

It is inconsistent policy for the legislature to clearly evince an intention in P. S. 1951, c. 214 to equate the retirement pay of retirees as nearly as possible to the increased cost of living by providing that all retirees shall be entitled to one-half pay of active state police officers of their same rank, and later in time, to deny said retirees by implication, an increase in retirement pay based upon longevity.

In regard to the second question submitted our answer is based upon the same reasoning which leads to an affirmative conclusion to the first question.

P. L. 1965, c. 387, as amended by P. L. 1967, c. 454 provides as follows:

"A surviving widow shall be paid $\frac{1}{2}$ of the amount that any member of the State Police, including the Chief of the State Police, is receiving either as a pension or a disability retirement allowance under this chapter, and said payments shall continue for the remainder of her lifetime or until she should remarry. Payments to the member shall cease as of the day of his death and shall begin to his widow on the following day.

"This section shall apply to a surviving widow of any member of the State Police who at the time of his death had been eligible to or receiving a pension or a disability retirement allowance under this chapter. *Payments to those who were surviving widows on September 3, 1965 shall be based upon the amount of pension or disability retirement that said member would have been entitled to receive as of September 3, 1965 under this chapter.*" (Emphasis supplied)

As indicated by the above-italicized statutory language, it is immaterial when the retiree died. The surviving widow's retirement allowance is to be computed upon the amount of retirement pay which her husband would have been entitled to receive had he lived until September 3, 1965.

PHILLIP M. KILMISTER
Assistant Attorney General

April 5, 1968
Personnel

Willard R. Harris, Director

Status of Classified State Employees as Candidates for Offices Elected by the Legislature

SYLLABUS:

A state classified employee must resign from classified service before he can become a candidate for an office which is elected by the state legislature. This result is required under 5 M.R.S.A. § 679.

FACTS:

A state employee, presently in the classified service, wishes to become a candidate for an office which is elected by the State Legislature.

QUESTION:

Does a classified state employee have to resign from classified service before becoming a candidate for an office elected by the state legislature?

ANSWER:

Yes.

REASONS:

5 M.R.S.A. § 679 reads as follows:

“No officer or employee in the classified service of this State shall, directly or indirectly, solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution or political service, whether voluntary or involuntary, for any political purpose whatever from any officer, agent, clerk or employee of the State or from any person.”

It was held in an opinion of this office dated March 8, 1962, that a person in the classified service is prohibited under § 679 from being a candidate for public office in a partisan election.

Consistent with this opinion, we find that a classified employee seeking an office elected by the state legislature would, either directly or indirectly, be soliciting or receiving a political service from legislators on becoming a candidate. This would violate 5 M.R.S.A. § 679. He must therefore resign from the classified service before becoming a candidate for this office.

WARREN E. WINSLOW, JR.
Assistant Attorney General

April 5, 1968

Honorable Joseph T. Edgar
Secretary of State

Honorable David H. Stevens
Chairman, Highway Commission

Colonel Parker F. Hennessey
Chief, Maine State Police

Gentlemen:

SYLLABUS:

29 M.R.S.A. § 1462 provides minimum standards for warning lights on State Highway Commission vehicles used in plowing and sanding public ways. § 1361 authorizes