

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

January 30, 1973

E. L. Walter, Executive Director

Retirement

Charles R. Larouche, Assistant

Attorney General

Retirement System-Requirement that Member Submit Claim to Industrial Accident Commission Prior to Allowance of Disability Retirement; and Non-allowance of Disability Retirement Request After Age 60.

This replies to your memo of January 16, 1973.

Your first question is whether or not the Board of Trustees, Maine State Retirement System, may require that prior to acting upon a disability retirement request, such member must submit a claim for Workmen's Compensation to the Industrial Accident Commission.

The answer to that question is a qualified affirmative. In view of the provision in 5 M.R.S.A. § 1122, subsection 5 that amounts payable by the State under any workmen's compensation law shall be offset against the amount of any retirement allowance payable under 5 M.R.S.A. § 1122 (Disability Retirement), this would seem to be a reasonable requirement. There are some differences between the State Workmen's Compensation provisions and the retirement disability provisions; the workmen's compensation provisions are more limited in that the disability must have arisen from an "accident"; they are also more liberal in that the disability need not be permanent; and, finally, the offsetting required by 5 M.R.S.A. § 1122, subsection 5 does not apply to amounts of workmen's compensation not payable by the State, e.g., those payable by a participating local district.

Accordingly, the Board of Trustees could adopt a general requirement that unless it clearly appears that the member would not be entitled to workmen's compensation payments, or unless it clearly appeared that the offsetting provision in 5 M.R.S.A. § 1122, subsection 5 were inapplicable that a member seeking disability retirement must submit a claim for workmen's compensation payments to the Industrial Accident Commission before the Board takes final action on his request for disability retirement.

You next ask whether or not the Board can accept an Occupational Disability Retirement Allowance Claim by an individual who is over age 60 or whose accident occurred beyond age 60. The answer to this question is affirmative. 5 M.R.S.A. § 1122, subsection 2, makes provision for retirement based upon occupational disability, without limitation thereof based upon age.

CHARLES R. LAROCHE
Assistant Attorney General

CRL:mfe

NOT A FORMAL OPINION