

# MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date November 20, 1973

To William G. Blodgett, Exec. Director Dept. Maine State Retirement System

from Charles R. Larouche, Assistant Dept. Attorney General

Subject Offsetting Workmen's Compensation Lump Sum Settlement Against Retirement System Disability Allowance

SYLLABUS:

The pre-calculated payments included in a workmen's compensation lump sum settlement must be offset against disability retirement allowance payments for the same disability.

FACTS:

Stated in question.

QUESTION:

Whether or not 5 M.R.S.A. § 1122, subsection 5, requires that a workmen's compensation lump sum settlement, other than for payments under 39 M.R.S.A. § 56, be offset against a disability retirement allowance for the same disability by the Maine State Retirement System?

ANSWER:

Yes.

REASONS:

5 M.R.S.A. § 1122, subsection 5, provides:

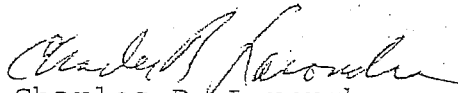
"Disability payments under other laws. Any amount which may be paid or payable by the State under any workmen's compensation or similar law except amounts which may be paid or payable under Title 39, section 56, to or on account of any member or retired member on account of any disability shall be offset against the amount of any retirement allowance payable under this section on account of the same disability."

39 M.R.S.A. § 71 provides, in pertinent part:

"Lump-sum payments. In any case where compensation is being paid or is claimed on account of an injury or death, either the employer, or the employee or his dependents, may petition the commission for an order commuting all payments on account of such injury or death that may become due in the future, to a lump sum. -----"

Where such commutation is ordered, the commission shall fix the lump sum to be paid at an amount which will equal the total sum of the probable future payments capitalized at their present value upon the basis of interest calculated at 5% per year with annual rests."

It is clear that the requirement to offset workmen's compensation payments is all-inclusive, the only exception being amounts paid under 39 M.R.S.A. § 56. With that sole exception, 5 M.R.S.A. § 1122, sub-section 5, directs the Board to offset "Any amount which may be paid or payable by the State under any workmen's compensation or similar law . . ." (Emphasis supplied). A lump sum settlement under 39 M.R.S.A. § 71 is certainly such an amount under the applicable law. The lump sum consists of a commutation of the total of all probable payments. Such pre-calculated payments must be offset by the Board.

  
Charles R. Larouche  
Assistant Attorney General

CRL/nm