

# 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)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

January 3, 1974

William G. Blodgett

Retirement

Charles R. Larouche, Assistant

Attorney General

Disability retirement of 30-year member under age 60; Credit for Years to Age 60.

This replies to your memo of December 19, 1973, concerning subject.

You ask whether or not a disability retiree who has 30 years of creditable service, but who is less than 60 years, is entitled to a credit for the years between his actual age and age 60. The answer to that question is affirmative.

5 M.R.S.A. § 1122, Subsection 1 provides:

"Except that any member, whose application for a disability retirement allowance is approved and who has 25 or more years of creditable service and who has not attained age 60, shall be entitled to a disability retirement allowance, the computation for which shall be 90% of 1/50 of his average final compensation multiplied by the number of years which would be creditable to him were his creditable service to include the period from the time of retirement to the attainment of age 60." (Emphasis supplied)

It is apparent that this benefit provision is applicable to all members who have 25 or more years of creditable service. The natural import of such language clearly includes a member who has 30 years or more of service. Hence, if a 30 year or more service member is under age 60, he, as well as the 25-29 year member is entitled to a credit for the years between his actual age and age 60, for the purpose of computing his retirement allowance under the formula provided in the above-quoted subparagraph.

I have found nothing in the rest of Section 1122, nor in any part of Chapter 101, Title 5, which would indicate an intent to limit this benefit provision to members having 25 or more years but less than 30 years. I have not overlooked the sentence following the one above-quoted. That succeeding sentence reads:

"If the member has 30 or more years of creditable service and is retired for reasons of disability prior to the attainment of age 60 under a service retirement allowance determined in accordance with section 1121, such retirement allowance shall not be subject to the reduction prescribed by section 1121, subsection 3 for service retirement prior to the attainment of age 60, provided that the member prior to retirement undergo the medical examination required for approval of retirement for ordinary disability under paragraph A, and, subsequently until attainment of age 60, undergo the periodic medical examinations required of persons retired for disability under subsection 3."

NOT A FORMAL OPINION

This sentence does not indicate an intent to exclude members having 30 or more years from the operation of the preceding sentence. This second sentence is talking about a "service retirement" whereas, the prior sentence is talking about a "disability retirement".

The "service retirement" under 5 M.R.S.A. § 1121 provides a computation formula that differs not only in the calculating of years of service, and it presents an available option. The function of the above-quoted second sentence is to provide that a member with 30 or more years, who is disabled and under age 60, may elect to retire under Section 1121, utilizing the Section 1121 computation formula, but without the reduction otherwise required by subsection 3, Section 1121. However, it does not preclude him from electing the alternative benefit provided in the first above-quoted sentence, taken from Section 1122.

NOT A FORMAL OPINION