

MAINE STATE LEGISLATURE

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January 1, 1975

Robert Hayden
Maine State Police

Capt. Robert Hayden, Staff Aide

Charles R. Larouche, Assistant

Attorney General

Consideration of Military-Service Credit under 5 MRSA § 1094 for 20 years service as State Police

This replies to your memo of December 18, 1974, concerning this subject.

I understand your question to be whether or not the military service credit allowable under 5 M.R.S.A. § 1094 may be considered for the purpose of computing the requisite period of 20 years of creditable service as a State Police Officer, for the purpose of retirement under 5 M.R.S.A. § 1121, sub-§ 1C. The answer to that question is negative.

5 M.R.S.A. § 1094, sub-§ 13, provides:

"13. Military service credit. Anything to the contrary notwithstanding, military service shall be credited to all state employees who are unable to otherwise qualify for military service credits.
. . ."

It is clear from this that all persons, including State Police, who are unable to otherwise qualify for military service credits, i.e., under 5 M.R.S.A. § 1091, sub-§ 6, are entitled to military service credit under 5 M.R.S.A. § 1094, sub-§ 13. However, 5 M.R.S.A. § 1121, sub-§ 1C provides:

" . . . Except that military service credits as allowed under section 1094 shall not be considered as part of the creditable service necessary for the 20 years service as a state police officer, but that any military service creditable under section 1091 shall be considered to be part of the creditable service necessary for the 20 years as a state police officer provided that he was a state police officer at the time of entrance into said military service and upon separation from military service again became a state police officer. . . ."

Accordingly, while a State Police Officer is entitled to the military service credit allowable under § 1094, that particular credit can not be considered in computing the required minimum 20-year period

of creditable service for the purpose of retirement under § 1121, sub-§ 1C. However, after otherwise acquiring the minimum 20-year period of service, the military service credit allowable under § 1094 can be considered in computing the retirement allowance for a State Police Officer.

If I can be of any further aid to you in this matter, please advise me.

CHARLES R. LAROCHE
Assistant Attorney General

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