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Retirement State Police
State Police Retirement
25 M.R.S.A. § 1591

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May 19, 1977

Honorable Stephen Gould
House of Representatives
State House
Augusta, Maine

Dear Representative Gould:

This responds to your request for an opinion regarding interpretation of certain administrative actions relating to the State Police retirement program, 25 M.R.S.A. § 1591. The facts relating to your request are these:

There are several retired State Police Captains who, when they retired, were compensated at the maximum step in their pay grade. There are no active Captains currently compensated at the maximum step in the pay grade for Captains, the highest paid Captain being paid at a step two steps below the maximum grade. Currently retirement benefits for retired Captains who retired at the maximum step in their grade are being compensated according to the pay of the highest paid active Captain although that pay is two steps below the maximum step and grade.

Based on these facts your question is: Whether the retired Captains who retired at the maximum step in their grade should be compensated at 1/2 of the pay of the highest paid active Captain or 1/2 of the pay which would be received by a Captain at the highest step in grade?

Address of this question initially requires review of the provisions of 25 M.R.S.A. § 1591. That section reads in pertinent part:

"Any member of the State Police may retire upon completion of 20 years creditable service, but must retire no later than July 1, 1974, and be placed upon the pension rolls and receive thereafter 1/2 of the pay per year that is paid to a member of his grade at the time of his retirement."

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It will be noted that the sentence refers to pay per year of a member "of his grade." The section does not further refer to the term "step" although the Legislature must be presumed to have had knowledge of both terms when drafting the legislation since the terms "grade" and "step" are technical terms widely used in pay computations. Thus, the question becomes whether the requirements of 25 M.R.S.A. § 1591 are sufficiently complied with when a retiree receives 1/2 of the pay of a member of equivalent rank in equivalent grade or whether that retiree must receive pay at a step within the grade equivalent to that which the retiree held at the time of leaving State service.

Based on our review of the statute, its history and intent, it is our view that where it is possible to identify both a grade and a step equivalent to that which a State Police officer held upon retirement, the retired State Police officer should receive benefits based on 1/2 of the pay rate of the specific grade and step. While this matter is not free from doubt; we believe it is the better interpretation of law to further the intent of the statute that State Police retirees receive 1/2 of the pay which an active State Police officer in his position would receive. This interpretation avoids wide fluctuations in retirement benefits which might occur if the rate of compensation to a retiree depended upon the rate of compensation of a current active State Police officer within a particular grade. If retirement benefits depended upon active pay, it is entirely possible that retirees would be faced with a situation of slowly rising benefits and then a steep drop at a time when senior officials retire. Further, those senior officials who retired would not receive 1/2 of their pay immediately before retirement; rather, they might only receive 1/2 of the base pay of their grade which might be several thousand dollars below their final pay.

Accordingly, we believe the better interpretation of § 1591 is to require that retired State Police officers be compensated according to 1/2 the pay of the equivalent grade and step to that position at which they retired rather than have their benefits depend upon the pay of any particular active State Police officer at any particular moment.

Sincerely,

DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec
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