

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)

§ M.R.S.A. 1122-1-B

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

August 11, 1977

To: W. G. Blodgett, Executive Director, Maine State Retirement System
From: Kay R. H. Evans, Assistant, Attorney General
Re: Status of Persons Meeting the Conditions of Disability
Retirement under 5 M.R.S.A. § 1122, sub-§ 1-B, 3rd paragraph

Your memo of August 1, 1977, asks whether a person retired under the 30-year provision of 5 M.R.S.A. § 1122(1)(B)¶3 "after having met the disability requirements" is or should be considered to be a service retiree receiving a service retirement allowance or a disability retiree receiving a disability retirement allowance.

Our opinion of January 3, 1974, takes the position that the retirement law provides that retirees who meet the § 1122(1)(B)¶3 criteria of 30 or more years of service and retirement prior to age 60 for reasons of disability have a choice of benefits: those provided under the first sentence of § 1122(1)(B)¶3^{1/} or those made available under the second sentence of that same section and paragraph and provided under § 1121(3). That opinion regards the first option above as a provision for disability retirement and the second as a provision for service retirement.

I see no reason to disagree with the above opinion. Accordingly, I conclude that a retiree who retires for reasons of disability prior to age 60 after 30 or more years of service and who receives benefits under § 1121(3) is a service retiree on a service retirement allowance. Your treatment of such a person as a service retiree would be correct.

Kay R. H. Evans

KAY R. H. EVANS
Assistant Attorney General

KRHE:mfe

^{1/} See our opinion of January 3, 1974, that "25 or more years" necessary includes 30 or more years, there being no evident intent to draw the "25 or more" line at 29.