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SPRINGFIELD

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FILE NO. S-1330

**PENSIONS:
Eligibility of a Former
Member of the General Assembly
to Receive Pension Benefits
After Conviction of a Service-
Related Felony**

Norman E. Lentz
Administrative Secretary
General Assembly Retirement System
516 Iles Park Place
Springfield, Illinois 62718

Dear Mr. Lentz:

I have your letter wherein you ask the following questions:

1. Has former Representative Robert Craig been convicted of a felony relating to or arising out of his service as a member of the General Assembly?
2. Considering the fact that Mr. Craig entered service as a member of the General Assembly in January 1955, does section 2-156 of the Illinois Pension Code (Ill. Rev. Stat. 1975, ch. 108 1/2, par. 2-156) prohibit payment of a retirement annuity to Mr. Craig?

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For the reasons hereinafter stated it is my opinion that section 2-156 of the Illinois Pension Code does not preclude payment of a retirement annuity to Mr. Craig because he entered service as a member of the General Assembly prior to July 11, 1955, the date on which the predecessor of section 2-156 went into effect. Therefore, consideration of your first question will not be necessary because Mr. Craig will be eligible for pension benefits even if he has been convicted of a felony relating to or arising out of his service as a member of the General Assembly.

Section 2-156 of the Illinois Pension Code provides as follows:

"§ 2-156. Felony conviction. None of the benefits herein provided for shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with his service as a member.

This section shall not operate to impair any contract or vested right heretofore acquired under any law or laws continued in this Article, nor to preclude the right to a refund.

All future entrants entering service subsequent to July 11, 1955 shall be deemed to have consented to the provisions of this Section as a condition of coverage."

No similar provision appeared in "AN ACT for the creation, maintenance and administration of a general Assembly member's

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and presiding officer's retirement system, etc." (Ill. Rev. Stat. 1961, ch. 63, par. 43 et seq.), the predecessor of article 2 of the Illinois Pension Code (Ill. Rev. Stat. 1975, ch. 108 1/2, par. 2-101 et seq.), prior to July 11, 1955.

In construing section 5-227 of the Illinois Pension Code (Ill. Rev. Stat. 1975, ch. 108 1/2, par. 5-227), a provision virtually identical to section 2-156 and enacted at the same time, the Appellate Court of Illinois held that the language of that provision does not bar the payment of pension benefits to policemen who entered service prior to its enactment. (Shanahan v. Policemen's Annuity & Benefit Fund (1976), 43 Ill. App. 3d 543, 545.) In reaching its conclusion the court relied heavily on the last sentence of section 5-227 and stated at page 547:

"

* * *

The fact that section 5—227 expressly applies to 'future entrants entering service after July 11, 1955,' impliedly excludes prior entrants from coverage. Where a statute enumerates persons affected, it must be construed as excluding from its effect all those not expressly mentioned. [Citations.] Thus, without any indicators to the contrary, the presumption is that the legislature intended to exclude from coverage those officers who joined the force prior to July 11, 1955. If a contrary intent had been intended then the inclusion of the final paragraph in section 5—227 would be meaningless and serve no purpose. We would be

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forced to label it mere surplus verbage, and clearly such a presumption of surplusage is impermissible under the traditional rules of statutory construction. [Citations.] A statute should be construed so that no word, clause, or sentence is rendered meaningless or superfluous. * * *

* * *

Because the language of section 2-156 is virtually identical to the language of section 5-227, it is my opinion that the reasoning of the court in its construction of the latter provision also applies to the former provision. Therefore, because Mr. Craig entered into service as a member of the General Assembly prior to July 11, 1955, he is eligible to receive pension benefits even if convicted of a felony arising out of or relating to his service as a member of the General Assembly.

Very truly yours,

A T T O R N E Y G E N E R A L