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FILE NO. S-463

PENSIONS:
State Employees Retirement System
Creditable Service for Sick Leave

Mr. Norman E. Lentz
Secretary
State Employees' Retirement System of Illinois
1201 South Fifth Street
Springfield, Illinois 62706

Dear Mr. Lentz:

I have your recent letter concerning the above subject which reads as follows:

"Amendments to Article 14 of the Pension Code contained in Senate Bill 539, signed by the Governor on August 27, 1971 (Public Act 77-1302), allows a member to retire with full pension at any age provided he has at least 35 years of creditable service.

"Under House Bill 1228, signed September 2, 1971 (Public Act 77-1434), an employee with accumulated sick leave may, under certain conditions, be

entitled to additional service credits in the Retirement System for pension purposes. You will note that 'the additional service credit shall not be considered in determining average final compensation or eligibility for service retirement allowance.'

"We now have a case where the member terminated service on September 7, 1971 with 34 years of creditable service and is age 58. He also has sufficient accumulated sick leave to be entitled to an additional 1-1/2 years of credit. In this case does the member qualify under Senate Bill 539 for full pension prior to age 60 because his total service credit, after crediting the additional 1-1/2 years because of unused sick leave, would be 35-1/2 years, or is his eligibility to this provision based on the creditable service established by him before any additional credit is granted because of unused sick leave?"

As indicated in your letter, Public Act 77-1302 is an amendatory Act allowing a member to retire after 35 years of creditable service at any age. House Bill 1228 as introduced in the General Assembly amended Section 14-144 of the "Illinois Pension Code" (Ill. Rev. Stat., ch. 108 1/2, par. 14-144) providing that a member shall receive service credit for accumulated unused sick leave on the termination of his employment. The Bill was amended before passage to provide that the period of accumulated unused sick leave "shall not be considered in determining average final

compensation or eligibility for service retirement allowance." House Bill 1228, supra, after passage became Public Act 77-1434 referred to in your letter.

The statutes concerned with herein state that additional service credit is allowed under certain conditions, and the statutes allow for a member to retire with full pension at any age provided he has at least 35 years of creditable service. It is, however, noted that the statute clearly provides that the period of accumulated unused sick leave shall not be considered in determining eligibility for service retirement allowance. Words employed by the General Assembly in each of the enactments concerned with herein would seem to be ordinary words that raise no question as to their meaning. In my view the statute is clear and explicit. There is accordingly no room for construction. It has been held that a law which is plain and unambiguous is not open for construction since the legislature should be considered to have intended to mean what it has plainly expressed and when the words have a definite and precise meaning it is not allowable to go

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beyond the statute and change their meaning. Chicago Home for Girls v. Carr, 300 Ill. 478, 486; Carroll v. Rogers, 330 Ill. at 114, 118-119.

In answer to your question, therefore, it is my opinion that the eligibility for service retirement allowance must be established independent of the additional creditable service to which a member may be entitled pursuant to the terms of Public Act 77-1434.

Very truly yours,

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