



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

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ATTORNEY GENERAL**

August 13, 1953

Mrs. B. B. Sapp
Executive Secretary
Teacher Retirement
System of Texas
Tribune Building
Austin, Texas

Opinion No. S-84

Re: Prospective or retroactive character of the requirement in Senate Bill 168, Acts 53rd Legislature, 1953, that re-depositing teachers must have been employed in the public schools for five consecutive years.

Dear Mrs. Sapp:

You have asked substantially the following question:

"Will teachers who taught the school year 1952-53 and who teach four more consecutive years meet the five year requirement provided for in Section 1 of Senate Bill 168?"

Section 1, Senate Bill 168, same being Ch. 417, 53rd Leg., 1953, p. 1014, states in part:

"Section 1. Any teacher who has heretofore withdrawn his deposits from the Teacher Retirement System at Austin, Texas, under provisions of the Teacher Retirement Law and who was employed in the public schools during the school year beginning September 1, 1952, or who returns to teaching prior to September 1, 1957, and who teaches five consecutive years, shall have the privilege of depositing the total amount so withdrawn plus all back assessments and dues together with simple interest thereon at 2½% interest per annum and thereby receive credit for prior service and membership service rendered in the public schools and institutions of higher learning supported in whole or in part by the State.

* * *

The emergency clause of the above mentioned Act states in part:

"Sec. 5. Because a large number of teachers withdrew their deposits from the Teacher Retirement System, many of them veterans of the U. S. Armed Forces who have since returned to teaching and are forced under the Teacher Retirement Law to again become members of the Teacher Retirement System, . . ." (Emphasis ours.)

It is stated in 39 Tex. Jur. 205, Statutes, Section 110:

" . . . an act that is susceptible of more than one construction will be so interpreted as to secure the benefits intended . . ."

It is evident from the emergency clause that the benefits intended by the Legislature in this amendment are to apply to teachers who have already returned to teaching since their withdrawal from the Teacher Retirement System.

It is our opinion that the retroactive aspect of the words "who have since returned to teaching" coupled with the phrase "who are employed in the public schools during the school year beginning September 1, 1952" indicates that the five consecutive year period for teachers who are employed during the school year beginning September 1, 1952, begins as of the date that they returned to teaching.

Therefore, it is our interpretation of this Article that teachers employed in the public schools during the school year beginning September 1, 1952, are only required to teach five consecutive years from the date they returned to teaching, in order to be eligible to re-enter and receive the benefits provided for in Section 1, Senate Bill 168.

SUMMARY

Any teacher who has heretofore withdrawn his deposit from the Teacher Retirement System and who was employed in the public schools during the school year beginning September 1, 1952, is only required to teach five consecutive years beginning as of the date he returned to teaching, in order to have the privilege of depositing

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the total amount so withdrawn and to receive
credit for prior service.

APPROVED:

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Reviewer

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Reviewer

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SCR:wb

Yours very truly,

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