



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

September 16, 1974

The Honorable Hal H. Hood
Firemen's Pension
Commissioner
503-F Sam Houston Bldg.
Austin, Texas 78701

Opinion No. H- 400

Re: Eligibility of Firemen's
service rendered prior to the
effective date of the pension
act to be credited in the
calculation of benefits.

Dear Mr. Hood:

You have asked our opinion on the correct manner to compute firemen's pension benefits. Specifically you ask whether a fireman who was hired prior to April 9, 1937, the effective date of the act creating the Firemen's Relief and Retirement Fund, may receive benefits for his service prior to the creation of the fund.

Article 6243e, V. T. C. S., is a lengthy and involved statute. Numerous methods are listed by which firemen can qualify for pensions, and the act is replete with population bracket classifications. The most frequent manner of qualifying for a pension is the attaining of a certain age coupled with twenty years service. You have inquired generally rather than referring to a specific provision of the Act. After studying Article 6243e, we have found no general requirement that only service which was accompanied by contemporaneous participation in the fund qualifies a fireman for a pension, although there are specific requirements which condition certain benefits on a lengthy period of participation in and contribution to the fund. See, e. g., §§ 6A, 6B(b), 6B (d), 6C-2(a), 6D(d)(1), 7A(a), 7B(a) and 7C(b)(1).

This pension act is to be given a broad and liberal construction to accomplish its purposes. Collins v. Board of Firemen, Policemen and

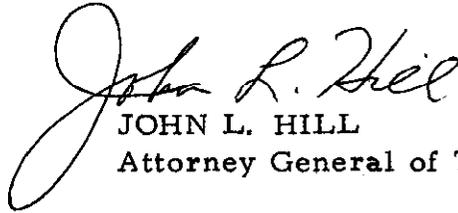
Fire Alarm Operators' Pension Fund Trustees of San Antonio, 290 S. W. 2d 719 (Tex. Civ. App. --Waco 1956, writ ref'd n. r. e.); Davis v. Peters, 224 S. W. 2d 490 (Tex. Civ. App. --Eastland 1949, no writ). In the past, Article 6243e and similar statutes have been applied to allow all of a fireman's service, even though a portion of that service was rendered prior to the effective date of the Act. City of Dallas v. Hoskins, 193 S. W. 2d 533 (Tex. Civ. App. --Dallas 1946, writ ref'd n. r. e.), Attorney General Opinions O-6583 (1945) and O-4937 (1942). There is no constitutional barrier to this construction. Byrd v. City of Dallas, 6 S. W. 2d 738 (Tex. 1928).

It is our conclusion that a fireman may receive credit for service rendered prior to the effective date of Article 6243e except where the statute specifically conditions benefits on a certain period of participation in the pension fund.

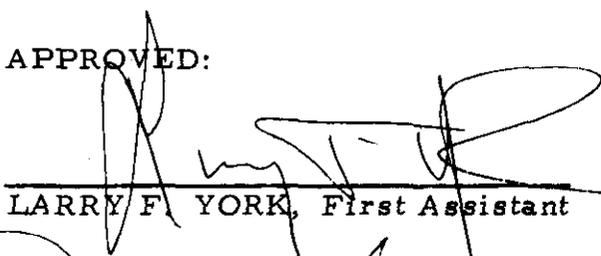
SUMMARY

A fireman may receive retirement credit for service rendered prior to the effective date of Article 6243e, V. T. C. S., except where the statute specifically conditions benefits on a certain period of participation in pension fund.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee

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