

LEGISLATORS: STATE LEGISLATURE:
GENERAL ASSEMBLY: RETIREMENT:
STATE EMPLOYEES' RETIREMENT SYSTEM:
STATE EMPLOYEES: EMPLOYEES:
STATE OFFICERS: OFFICERS:

Members of the Legislature who have served eight or more years and who have not been refunded their accumulated contributions to the retirement fund continue as members of the system and may draw retirement benefits on reaching retirement age.



February 17, 1958

NOTE:

Section 104.380 now provides for retirement after 6 years as a legislator and payment of \$25 for each session served. - Laws 1961, p. 543

Honorable Russell Corn
Member of the Legislature
Howell County
Willow Springs, Missouri

Dear Sir:

You have recently requested an official opinion from this office on the following matter:

"I refer you to House Bill No. 188 of the 69th General Assembly, Truly Agreed to and Finally Passed.

"I would like an opinion on Section 18. In other words in my case I have served twelve years in the Legislature. In the event I do not come back and I am not sixty-five years of age, I would like an opinion whether or not I would come under this Retirement Bill.
* * *

House Bill No. 188 of the 69th General Assembly is now found in Sections 104.310 to 104.550, inclusive, RSMo 1957 Cumulative Supplement. Section 104.330 provides: "That any member who has served eight or more years as a member of the General Assembly and who has not been refunded his accumulated contributions to the fund shall continue to be a member of the system."

Section 104.380 provides that: "Each member shall retire at the end of the month during which such member shall reach normal retirement age with a normal annuity." By Section 104.310, Paragraph (21) normal retirement age is fixed at sixty-five years for all members.

Honorable Russell Corn

Section 104.390 (which is Section 18 of the bill) provides that: "The normal annuity of a member shall equal five-sixths of one percent of the average compensation of the member multiplied by the number of years of creditable service." This section goes on to make special provisions for members of the Legislature and provides: "That the minimum annuity of any member who has served eight or more years as a member of the General Assembly . . . shall consist of monthly payments made at the rate of \$10 multiplied by the number of biennial assemblies in which he has served." The section then places a maximum limit upon retirement annuities by providing that such shall never exceed two-thirds of the member's average compensation.

Thus we see that Section 104.330 provides that after a Legislator has eight years' creditable service in the Legislature he continues to be a member of the retirement system even though no longer a member of the Legislature as long as he does not apply for and receive a refund of his accumulated contributions. Section 104.380, provides that members of the system (including such ex-legislators) retire at normal retirement age, which is fixed at age sixty-five by Section 104.310 (21).

The retirement annuity of such ex-legislator is computed at a monthly payment of \$10 times the number of biennial assemblies in which the legislator has served (Section 104.390). This annuity cannot exceed two-thirds of his average compensation.

CONCLUSION

It is, therefore, on the basis of the foregoing the opinion of this office that after a Legislator has eight years' creditable service in the Legislature, he continues to be a member of the retirement system as long as he does not apply for and receive a refund of his accumulated contributions, and on reaching retirement age, which is normally sixty-five, he may retire and receive a retirement annuity of a monthly payment of \$10 times the number of biennial assemblies in which he served. Such annuity may not exceed two-thirds of his average compensation. This conclusion, of course, assumes a normal situation and it would be possible for the particular facts of any special case to bring the individual legislator within some of the special provisions of the retirement act, which are not considered here.

Honorable Russell Corn

The foregoing opinion, which I hereby approve, was prepared by my assistant, Fred L. Howard.

Yours very truly,

John M. Dalton
Attorney General

FLH:vlw