

STATE RETIREMENT SYSTEM: On or after October 13, 1961, a
LEGISLATURE: member of the Missouri State
RETIREMENT: Employees' Retirement System
who retires after his 65th birth-
day with six years' service as a
member of the general assembly is
entitled to a minimum annuity of
\$25.00 per month per term.

March 2, 1962

OPN. 52-1962
458-1961

Honorable Arkley W. Frieze
State Senator, 32nd District
307 South Main
Carthage, Missouri



Dear Mr. Frieze:

This is in reply to your opinion request of December 16, 1961, wherein you state in part as follows:

"Mr. W. O. Hanks, who has been the legal advisor for the Joplin branch of the Workmen's Compensation Division, is retiring on December 31, 1961, having reached the age of 70 years in June of 1961. Mr. Hanks has been the legal advisor since the Joplin branch office was created and went into operation on July 1, 1956 and has served continuously in that capacity to the present time.

"Mr. Hanks had six years previous service in the House of Representatives of Missouri, having served in the 59th, 60th and 61st General Assemblies of Missouri, or continuous service from January 1, 1937, to January 1, 1943.

"Please furnish me with an opinion from your office as to the amount of retirement benefits under the facts herein stated, in your opinion, Mr. Hanks would be entitled to."

Section 104.390, Missouri Revised Statutes Cumulative Supplement 1961 (H.B. Nos. 131 & 410 § 1) states as follows:

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"The normal annuity of a member shall equal one per cent of the average compensation of the member multiplied by the number of years of creditable service of such member, except that the minimum annuity of any member who has served six or more years as a member of the general assembly and who meets the conditions for retirement at or after normal retirement age shall consist of monthly payments made at the rate of twenty-five dollars multiplied by the number of biennial assemblies in which he has served; provided, however, that the annuity of any member shall never exceed two-thirds of the compensation being paid to members of the General Assembly."

The precise language of this statute directs that any person who has at any time served six or more years as a member of the general assembly shall be entitled to a minimum annuity of twenty-five dollars per month, provided however, that said individual is a member of the Missouri State Employees' Retirement System at the time of retirement and meets the conditions for retirement at or after normal retirement age.

Section 104.310(21) RSMo 1959, defines the term "normal retirement age" at 65 years for all members.

Because Mr. Hanks was an employee of the Workmen's Compensation Division on the date of his retirement on December 31, 1961, he was a member of the Missouri State Employees' Retirement System at that date. In addition, he was over 65 years of age and therefore entitled to the normal annuity.

Furthermore, he had previously served six years as a member of the general assembly (January 1, 1937 to January 1, 1943). Thus, he would be entitled to receive a minimum annuity of \$25.00 per month per term or a total of \$75.00 per month under Section 104.390 Missouri Revised

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Statutes Cumulative Supplement 1961 (H. B. Nos. 131 & 410 § 1).

CONCLUSION

On or after October 13, 1961, a member of the Missouri State Employees' Retirement System who retires after his 65th birthday with six years' service as a member of the general assembly is entitled to a minimum annuity of \$25.00 per month per term or a total of \$75.00 per month under Section 104.390 Missouri Revised Statutes Cumulative Supplement 1961 (H. B. Nos. 131 & 410 § 1).

The foregoing opinion, which I hereby approve, was prepared by my assistant, George W. Draper, II.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

GWD lc