

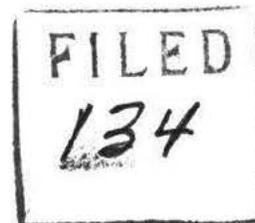
SCHOOLS:
PUBLIC SCHOOL RETIREMENT
SYSTEM:
TEACHERS:

Senate Bill No. 906 of the Second
Regular Session, 79th General
Assembly, effective August 13,
1978, relating to membership and
prior service credit in the Public

School Retirement System of Missouri does not authorize a reapplica-
tion for election by a member of the system to pay previous with-
drawals or refunds to reinstate prior service credit.

OPINION NO. 134

August 18, 1978



Warren M. Black, Secretary
The Public School Retirement System
of Missouri
P. O. Box 268
Jefferson City, Missouri 65101

Dear Mr. Black:

This opinion is in response to your questions asking as follows:

"S.B. 906, Second Regular Session, 79th General Assembly, provides in Section 169.050 (5) for the reopening of the opportunity to reinstate credit for teaching which had been lost at termination or withdrawal, and where the member had failed to reinstate the credit within the time period prescribed in the present law. The Board of Trustees has directed me to seek your opinion on these questions:

"(1) In past years, some members have made application to reinstate creditable service but have failed to complete payment within the prescribed five years. In such cases, the applications were cancelled and the amount paid was refunded. Does 169.050 (5) give those members the right to reapply to purchase that credit?

"(2) Some members who have applied to reinstate credit have applications which expire shortly before or after the effective date, [August 13, 1978] and for which they have not completed purchase payments. Does Section 169.050 (5) of

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S.B. 906 allow the cancellation of the present applications giving these members the opportunity to apply after the effective date with another five years to complete payments?"

Your also state:

"By deleting the phrase 'within five years after such reemployment, or before July 1, 1968, and prior to retirement' in line 60 after the word 'elect' and adding the letter 's' after 'withdrawal' and 'refund' on line 61 and after 'reinstatement' on lines 62-63, the intent seems to be that the member may purchase all withdrawn credit. However, the language remained in lines 71-73 requiring that payment must be made in five years after election. . . ."

Subsection 5 of Section 169.050 as amended by Senate Bill No. 906, Second Regular Session, 79th General Assembly, effective August 13, 1978, provides as follows:

"5. If a member withdraws or is refunded his contributions, he shall thereby forfeit any creditable service he may have; provided, however, if such person again becomes a member of the system, he may elect to reinstate any creditable service forfeited at time of previous withdrawals or refunds. The reinstatements shall be effected by the member's paying to the retirement system with interest the amount of accumulated contributions withdrawn by him or refunded to him at the time of withdrawal or refund and by teaching in the public schools of Missouri not less than seven years after returning before retirement; provided, however, that reinstatement with respect to eligibility for disability retirement shall be effective after returning and teaching not less than three years in the public schools of Missouri if such teaching makes a total of at least eight years taught in the public schools of Missouri. The payment may be made over a period of not longer than five years from the date of election, and with interest on the unpaid balance; provided, how-

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ever, that if a member is retired on disability before completing such payments, the balance due with interest shall be deducted from his disability retirement allowance."

It seems clear that under the amended law it is no longer necessary to make the election to reinstate creditable service within five years after such employment, or before July 1, 1968, whichever is later. It is also obvious, as you have noted, that the latter part of subsection 5 still requires that payment be made over a period of not longer than five years from the date of election except where a member is retired on disability before completing such payment.

The clear thrust of the bill therefore, is to eliminate the requirement that such election be made within five years after such reemployment or before July 1, 1968, whichever is later. The requirement remains, however, that payment must be made over a period of not longer than five years from the date of election except as expressly provided with respect to members retiring on disability before completing such payment.

It is clear that when a statute is amended the amendment should be given its intended effect. However, provisions of any statute which is reenacted so far as they are the same as those of a prior law, are construed as a continuation of such law and not as a new enactment. Section 1.120, RSMo.

Thus, where the application constitutes a proper election under such subsection payment (including interest on the unpaid balance) must be made over a period of not longer than five years from the date of the election. By continuing this five year requirement for payment the legislature has indicated the intent that once that election has been made, whether before or after the effective date of Senate Bill No. 906, there is only five years in which to complete payment. Those who have made such elections and failed to meet such five year requirement are not, under this law, entitled to cancel such elections and make new elections.

We believe this answers both of the questions you have asked.

CONCLUSION

It is the opinion of this office that Senate Bill No. 906 of the Second Regular Session, 79th General Assembly, effective August 13, 1978, relating to membership and prior service credit in the Public School Retirement System of Missouri does not

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authorize a reapplication for election by a member of the system to pay previous withdrawals or refunds to reinstate prior service credit.

The foregoing opinion which I hereby approve was prepared by my assistant, John C. Klaffenbach.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Ashcroft", written in a cursive style.

JOHN ASHCROFT
Attorney General