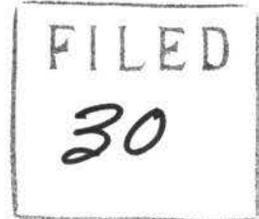


February 19, 1975

OPINION LETTER NO. 30  
Answer by letter-Jones

Dr. Robert D. Elsea, Executive Secretary  
Public School Retirement System of Missouri  
Post Office Box 268  
Jefferson City, Missouri 65101



Dear Dr. Elsea:

This letter is to acknowledge receipt of a request from your predecessor for an opinion from this office which provides as follows:

"Whether or not new employees of the Department of Elementary and Secondary Education, the Missouri School for the Blind, and the Missouri School for the Deaf, are entitled to participate in the Public School Retirement System as a result of the passage of Senate Bill No. 1, commonly referred to as the Reorganization Bill? We also would wish your response to cover employees and employers set forth in Section 169.130.1 and Section 169.130.3."

The following facts were also furnished in the opinion request:

"Under the provisions of subsection 16 of Section 169.010 RSMo Supp. 1973, persons employed in the State Department of Education or by the State Board of Education in an executive capacity and other persons employed by said State Board of Education on a full time basis who shall be duly certificated under the law governing the certification of teachers are entitled to membership in the Public School Retirement System. As a result various employees of the Department of Education, the Missouri School for

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the Blind, and the Missouri School for the Deaf are members of this Retirement System.

"However, under the provisions of Section 5 (1) and (2) pages 20 and 21 of Senate Bill No. 1, there is created a Department of Elementary and Secondary Education, and the Department of Education is abolished. Also the Missouri School for the Deaf, and the Missouri School for the Blind, are transferred to the Department of Elementary and Secondary Education by a Type 1 transfer.

"We have presumed that new employees of the Department of Elementary and Secondary Education, the Missouri School for the Deaf and the Missouri School for the Blind are eligible to participate in the Retirement System, but a question has been raised, and a formal opinion is needed to clarify the matter."

It is our understanding that your question relates to whether or not new employees of the various agencies and departments that you mentioned in your opinion request will be eligible to participate in the Retirement System. In this regard, the Public School Retirement System of Missouri is provided for in Sections 169.010 through 169.130, RSMo 1969. The phrase "public school" is defined in subsection 12 of Section 169.010, RSMo Supp. 1973, as follows:

"(12) 'Public School' shall mean any school conducted within the state under the authority and supervision of a duly elected district or city or town board of directors or board of education and the board of regents of the several state teachers' colleges, or state colleges, board of trustees of the public school retirement system of Missouri, and also the state of Missouri and each county thereof, to the extent that the state and the several counties are employers of teachers as herein designated;"

The word "teacher" is defined in part in subsection 16 of Section 169.010, RSMo Supp. 1973, as follows:

"(16) 'Teacher' shall mean . . . and the state superintendent of public schools or commissioner of education, persons employed

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in the state department of education or by the state board of education in an executive capacity and other persons employed by said state board of education on a full-time basis who shall be duly certificated under the law governing the certification of teachers; . . ."

In addition, subsections 1 and 3 of Section 169.130, RSMo 1969, provides as follows:

"1. Any person, duly certified under the law governing the certification of teachers, employed full time as a teacher by the state board of training schools, by the division of inmate education of the department of corrections, or by a division of the state department of public health and welfare and who renders services in a school whose standards of education are set and which is supervised by a public school officer of the county in which the school is located or by the state department of education, is a member of the public school retirement system of Missouri. Any such person who becomes a member before the end of the school year next following July 18, 1948, may claim and receive credit for prior service. The contributions required to be made by the member's employer shall be paid from appropriations to the institution by which the member is employed.

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"3. Any person, duly certificated under the law governing the certification of teachers, employed full time, and whose duties include participation in the educational program of the division of mental diseases, in either a teaching or supervisory teaching capacity shall, after August 7, 1969, be a member of the public school retirement system, but any such person whose employment with the division of mental diseases commenced prior to August 7, 1969, may elect not to become a member by so notifying the division of mental diseases in writing within thirty days after August 7, 1969."

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Initially, we note that Section 5.1 of C.C.S.H.C.S.S.C.S. Senate Bill No. 1, First Extraordinary Session, 77th General Assembly (hereinafter referred to as Senate Bill No. 1), provides for the creation of a Department of Elementary and Secondary Education. Section 5.4 of Senate Bill No. 1 indicates that the Missouri School for the Deaf, Chapter 178, RSMo, and others, and the Missouri School for the Blind, Chapter 178, RSMo, and others, are transferred to the Department of Elementary and Secondary Education by a Type I transfer. In Section 9.3 of Senate Bill No. 1, the Division of Mental Health of the Department of Health and Welfare, Chapter 202, RSMo, and others, is abolished and all powers, duties, and functions then assigned by law to the division, the director of the Division of Mental Health or any of the institutions or officials of the division are transferred by Type I transfer to the Department of Mental Health. Section 13.1 of Senate Bill No. 1 provides for the creation of a Department of Social Services. Said section also provides that all the powers, duties, and functions of the director of the Department of Public Health and Welfare, Chapters 191 and 192, RSMo, and others, not previously reassigned by executive reorganization plan 2 of 1973 as submitted by the Governor under Chapter 26, RSMo, and except those assigned to the Department of Mental Health are transferred by Type I transfer to the Director of the Department of Social Services. Section 13.15 of Senate Bill No. 1 provides that all the powers, duties, and functions of the Department of Corrections, Chapter 216, RSMo, and others, are transferred by Type II transfer to the Department of Social Services and the Department of Corrections is abolished. The divisions within the Department of Corrections shall be redesignated as sections. Section 13.16 of Senate Bill No. 1 provides that all the powers, duties, and functions vested in the State Board of Training Schools, Chapter 219, RSMo, and others, are transferred by Type I transfer to the Division of Youth Services which is authorized to be in the Department of Social Services. Lastly, Section 1.11 of Senate Bill No. 1 reads as follows:

"11. Nothing in this act shall be interpreted as transferring any employee from one state pension or retirement system to another."

In connection with the above, the primary rule of statutory construction is to ascertain and give effect to legislative intent. City of Kirkwood v. Allen, 399 S.W.2d 30 (Mo.Banc 1966). Also, in interpreting a statute, one must presume that the legislature intended a logical and reasonable result. McCarthy v. Board of Trustees of the Firemen's Retirement System of St. Louis, 462 S.W.2d 827 (St.L.Ct.App. 1970). Under such circumstances, it is our view that the legislature did not intend by the passage of Senate Bill No. 1, to exclude old or new teachers of the various departments and agencies that you referred to in your opinion

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request from participating in the Public School Retirement System of Missouri.

It is, therefore, our view that the passage of Senate Bill No. 1, First Extraordinary Session, 77th General Assembly, commonly referred to as the Reorganization Bill, does not preclude new teachers of the Department of Elementary and Secondary Education, the Missouri School for the Blind, and the Missouri School for the Deaf, and the teachers set forth in subsections 1 and 3 of Section 169.130, RSMo 1969, from participating in the Public School Retirement System of Missouri.

Yours very truly,

JOHN C. DANFORTH  
Attorney General