



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

January 10, 1979

FILE NO. S-1403

PENSIONS:

Computation of Post-Retirement
Allowance Increases for Members
of the Teachers' Retirement System

Roy A. Baker, Director
Teachers' Retirement System
of the State of Illinois
450 Iles Park Place
Springfield, Illinois 62706

Dear Mr. Baker:

I have your letter relating to the calculation of ~~post-retirement allowance~~ increases for members of the Teachers' Retirement System. Your questions arise out of the amendment of section 16-133.1 and section 16-136.1 of the Illinois Pension Code (Ill. Rev. Stat. 1977, ch. 108 1/2, pars. 16-133.1, 16-136.1) by Public Act 80-1408, effective August 28, 1978. Section 16-133.1, which provides automatic post-retirement increases for members of the System, was amended to raise annual increases from 2 percent

Roy A. Baker - 2.

to 3 percent of the monthly base pension, but no changes were made in the figures for computation of the initial post-retirement increase. Section 16-136.1, which provides allowance increases for persons who were receiving an allowance on June 30, 1969, or are otherwise ineligible to receive increases under section 16-133.1, was amended to raise the amount of annual increases from 2 percent to 3 percent of the original monthly retirement allowance for periods after January 1, 1979, but the amendment made no change in the figures provided for computation of the initial increase.

Your first two questions relate to the computation of initial retirement allowance increases under section 16-133.1. You inquire whether, in light of the fact that amendments to sections 15-136 and 15-136.1 of the Code governing the State Universities' Retirement System (Ill. Rev. Stat. 1977, ch. 108 1/2, pars. 15-136, 15-136.1) by Public Act 80-1408 permit the application of the 3 percent figure in computation of an initial increase, initial increases for the Teachers' System under section 16-133.1 may be calculated for periods after January 1, 1978 at the same rate (3 percent per annum or the number of months x .25% rather than 2% per annum or the number of months x .1667%). Section 16-133.1, as amended, provides in

Roy A. Baker - 3.

pertinent part as follows (the language added by the amendment is underscored):

* * *

(2) The increase provided herein shall first occur effective January 1 of the year next following the first anniversary in retirement, or January 1 of the year next following attainment of age 61, whichever is later. At such time the system shall pay an initial increase computed at the rate of .125% of monthly base pension multiplied by the number of months which elapse from the later of (a) attainment of age 55, or (b) date of retirement, until January 1, 1972 and at the rate of .1667% of monthly base pension multiplied by the number of months which elapse from that date to the effective date of the initial increase. The monthly retirement allowance shall be increased on each January 1 thereafter during the life of the beneficiary by 2% of the monthly base pension. The change in this paragraph shall be effective January 1, 1972. Beginning January 1, 1979, the rate of such annual increases shall be 3%.

* * *

(Emphasis added.)

Based upon the above language, it is my opinion that an initial increase under section 16-133.1 must be computed at the rate of 2 percent per annum, which is .1667 percent per month.

In the examples (I and II) which you have given in regard to your first two questions, the annuitants retired on July 1, one in 1977 and the other in 1978. Therefore, under the provisions of section 16-133.1, they will not be entitled

Roy A. Baker - 4.

to initial increases until 18 months after retirement. Section 16-133.1 clearly provides that initial increases are to be computed by multiplying .1667% of an annuitant's monthly base pension by the number of months which elapse from the date of retirement to the effective date of the increase. The resulting increase will be at a rate of 2 percent per annum.

The facts that an initial increase computed under section 15-136 or section 15-136.1 may result in an initial increase of 3 percent per annum for members of the State Universities' Retirement System and that such increase was provided in the same Public Act with the amendment to section 16-133.1, are not sufficient to show an intent on the part of the General Assembly to increase the rate for computation of initial increases under section 16-133.1. Public Act 80-1408 amended part of section 15-136 to read as follows (the language added is underscored and the language deleted is interlined):

"

* * *

Each annuitant whose status as an employee terminates after August 14, 1969, shall receive a monthly increase in his retirement annuity effective January 1 nearest the first anniversary of his retirement or January 1 nearest his 61st birthday, whichever is later, of .125% of the monthly retirement annuity provided by Rule 1, Rule 2, or Rule 3,

Roy A. Baker - 5.

multiplied by the number of full months which elapsed from the date the retirement annuity payment period began to January 1, 1972, and .1667% of such annuity multiplied by the number of full months which elapsed from that date or the date the retirement annuity payment period begins, whichever is later, to January 1, 1978, and .25% of such annuity multiplied by the number of full months which elapsed from that date or the date the retirement annuity payment begins, whichever is later, to the effective date of the increase. The monthly retirement annuity shall be increased on each January 1 thereafter during the life of the annuitant by 3% 2% of the monthly annuity provided by Rule 1, Rule 2 or Rule 3. The change made in this paragraph by this amendatory Act of 1978 ~~1976~~ shall be effective January 1, 1979 ~~1976~~, and shall apply to each annuitant whose status as an employee terminated after August 14, 1969.

* * *

However, the language of section 16-133.1 relating to the computation of the initial increase for annuitants of the Teachers' Retirement System remains unchanged. Thus there is no basis for computing an initial increase at a higher rate.

The only increase provided in the amended version of section 16-133.1 related to subsequent annual increases. Such increase in no way affects the computation of initial increases under the provision. Therefore, in response to your first two questions, it is my opinion that your initial retirement allowance increase calculations using .1667 percent of the base pension times the number of months elapsed, produce correct results. There is no authority expressly or impliedly granted to use the .25 percent figure contained in sections 15-136 and

Roy A. Baker - 6.

15-136.1 as a basis for computations under section 16-133.1.

Your third, fourth and fifth questions relate to increases paid under section 16-136.1 of the Code. Section 16-136.1 applies to persons who are receiving retirement allowance on June 30, 1969, or are otherwise ineligible to receive increases under section 16-133.1. Increases under section 16-136.1, such as those for the annuitant in the example (III) which you have presented, are generally paid beginning on September 1 of every year. Public Act 80-1408 amended section 16-136.1 to provide that increases made for periods following January 1, 1979, shall be paid at an annual rate of 3 percent of the original monthly retirement allowance. Therefore, in a situation such as the one which you have presented, the annuitant's allowance increase should be computed at the 2 percent rate for the period between September 1, 1978 and December 31, 1978, and at the 3 percent rate thereafter. Annual increases for subsequent years are then to be paid at the rate of 3 percent.

Your sixth question relates to the computation of initial increases under section 16-136.1. You inquire how the allowance increase of a pre-1969 retiree is to be computed if such retiree does not make the necessary qualifying payment

Roy A. Baker - 7.

until August 1979. Section 16-136.1, as amended, provides that the initial increase is to be computed at a rate of 1 1/2 percent of the original monthly retirement for periods prior to September 1, 1971, and at a rate of 2 percent thereafter. There is no language in Public Act 80-1408 which would permit computation of any part of the initial increase at the 3 percent rate. Therefore, the retiree in your example (IV) will not be entitled to a 3 percent increase until September 1, 1980, at which time he will receive his first annual increase. On the basis of the language contained in section 16-136.1, it is my opinion that your calculations for the initial increase of the retiree in question are correct.

As you pointed out in your letter, Public Act 80-1408 amended provisions of article 15 of the Code (Ill. Rev. Stat. 1977, ch. 108 1/2, par. 15-101 et seq.) in such a manner as to permit initial increases paid to State Universities' Retirement System members to be made at the 3 percent rate. Although there is speculation that the General Assembly may have intended to modify the provisions of article 16 of the Code (Ill. Rev. Stat. 1977, ch. 108 1/2, par. 16-101 et seq.) in a similar manner, they did not do so. Words which are not within the plain intention of the General Assembly, as determined from the statute itself,

Roy A. Baker - 8.

cannot be read into a statute, and the plain meaning of a statute cannot be restricted or enlarged. (Bovinette v. City of Mascoutah (1973), 55 Ill. 2d 129, 133.) Therefore, because the language of amended sections 16-133.1 and 16-136.1 does not change the computation figures in question, it must be concluded that it was the intention of the General Assembly not to change those figures.

Very truly yours,

A T T O R N E Y G E N E R A L