

Opinion No. 47-5114

December 17, 1947

BY: C. C. McCULLOH, Attorney General

TO: Mr. Epigmenio Ramirez Secretary, Public Employees' Retirement Association
Room 45, Capitol Building Santa Fe, New Mexico

{*118} We wish to acknowledge receipt of your inquiry of December 9, 1947, wherein our opinion was requested on the following question:

"Is a person receiving retirement compensation for services rendered to the United States Government, or any other source other than the State of New Mexico, if otherwise qualified, entitled to retirement annuity from the Public Employees' Retirement Association of New Mexico?"

The only reference in said act we have been able to find in any way bearing on this question is contained in Section 17 of said Act, to-wit:

"Annuities to be paid in monthly installments. -- All annuities granted under the provisions of this Act shall be paid in equal installments and shall be in addition to any benefits accruing to a State employee under the Workmen's Compensation Act."

This section does throw light on the intent of the Legislature in regard to the aforementioned question in that it does not prohibit a state employee who is drawing Workmen's Compensation to also receive all annuities due him under this Act.

Mr. McCulloh, on the 11th of August, 1947, in opinion No. 5063, indirectly answered your question when he wrote that a State Policeman could participate in the Public Employees' Retirement Plan (Chapter 167, Laws of 1947) even though he was participating in a pension plan previously authorized by the Legislature.

It is, therefore, our opinion that a person who is receiving retirement compensation from the U. S. Government or some other source, is also entitled to retirement annuity from the Public Employees' Retirement Association of New Mexico, if he or she is otherwise qualified under the Act to receive same.

Trusting the aforementioned satisfies your inquiry, I am,

By ROBERT V. WOLLARD,

Asst. Atty. General