Opinion No. 54-6042

December 3, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. John C. Hays Executive Secretary Public Employees' Retirement Assoc. Post Office Box 925 Santa Fe, New Mexico

{*514} In your letter dated November 26, 1954 you state that you made a request to the Board of Finance for a budget in addition to the appropriation contained in § 5, Chap. 156, Laws of 1953, wherein the Employees' Retirement Board has an appropriation of $ 31,750. You further state that the Finance Board, while recognizing the need for additional funds, refused the application due to the provision in § 5 prohibiting the Board from increasing any of the appropriations contained in § 5. You are wondering whether under § 12, Chap. 162, Laws of 1953, an additional budget may legally be approved by the Finance Board.

§ 12, Chap. 162, Laws of 1953, was the new Public Employees' Retirement Act which became effective on June 13, 1953 and was effective after the Appropriations Act became effective on the date of its approval. § 12 provides for an income fund and, in connection with payment of expenses, etc., of the Board, uses this language:

"There shall be paid or transferred from the income fund all administrative expenses of the association and all amounts required to credit regular interest to the employees savings fund and the retirement reserve fund as provided in this Act."

Since this shows an intention on the part of the Legislature to appropriate monies from this fund that may be necessary for administrative expenses of the Retirement Board, it is our opinion that this is the last act of the Legislature, being later in time of taking effect than the 1953 Appropriations Act, and the same would govern in connection with the appropriation to said Board rather than the General Appropriations Act. Under such circumstances, the Board of Finance could legally approve the necessary budget required by your Board in excess of the appropriation contained in § 5 above mentioned.

By: C. C. McCulloh

Assist. Attorney General