

Opinion No. 54-6019

September 20, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Epigmenio Ramirez Administrative Assistant Public Employees Retirement Association Santa Fe, New Mexico

{*481} In your letter dated September 16, 1954, you refer to our previous opinion, No. 5811, dated September 16, 1954, in which it was stated "that persons who wish to retire under Ch. 162, L. 1953 must be employed by the State of New Mexico after the effective date of said Act." You state there are at least two former employees of the State who ceased to be employees prior to the effective date of the 1953 Act but who maintained their membership in good standing under the prior law up to the effective date of the new Act. You are wondering whether the statement made in our previous opinion may not be reconsidered and withdrawn in view of the recent Supreme Court decision entitled *State ex rel Hudgins vs. Public Employees Retirement Board, et als.*'

{*482} Under the 1953 Act, any member in good standing at the time the act became effective continued his membership rights, service credits, etc., under the new act. In view of the Supreme Court decision, it is our opinion that such a member in good standing, by paying in the required amount to be entitled to the additional annuity under the 1953 Act and upon attaining the required age, would be entitled to retirement under the 1953 Act without being reemployed and rendering service after the 1953 Act became effective.

By: C. C. McCulloh

Assist. Attorney General