



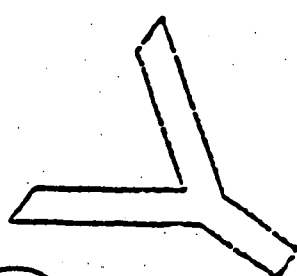
TYRONE C. FAHNER

ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

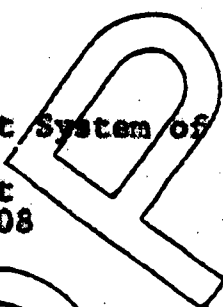
July 28, 1981

FILE NO. 81-026

**STATE EMPLOYEES:
State Employees' Retirement
System of Illinois**



Michael L. Mory
Executive Secretary
State Employees' Retirement System of Illinois
P. O. Box 4064
2815 West Washington Street
Springfield, Illinois 62708



Dear Mr. Mory:

I have your letter wherein you inquire whether a settlement agreement, approved by the Industrial Commission, for occupational disability benefits under the Workers' Compensation Act (Ill. Rev. Stat. 1980 Supp., ch. 48, par. 138.1 et seq.) would govern the period of disability benefit liability of the State Employees' Retirement System of Illinois. For the reasons hereinafter stated, it is my opinion that the liability of the System would not be so limited.

Section 14-123 of the Illinois Pension Code (Ill. Rev. Stat. 1979, ch. 108 1/2, par. 14-123) provides for payment

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of occupational disability benefits to a member of the pension system who becomes incapacitated to perform the duties of his position while under age 65, as the proximate result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of the member's duties. Benefits under this section are payable until:

" * * *

- (1) the date on which disability ceases;
- (2) the date on which the member engages in gainful employment; or
- (3) the end of the month in which the member attains age 65, whichever occurs first.

* * *

Section 14-128 of the Code provides for occupational death benefits to a member whose death, prior to retirement, is the proximate result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of the member's duties. Under the provisions of this section, payment of the annuity continues until:

" * * *

1. Remarriage before age 55 or death of a surviving spouse;
2. Attainment of age 18, death, or marriage of an eligible child.

* * *

Section 14-129 of the Code requires that before the State Employees' Retirement System of Illinois can take any

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action on a claim for an occupational death benefit or an occupational disability benefit, an adjudication by the Industrial Commission, or a ruling by the agency responsible for determining the liability of the State under the Workmen's Compensation Act must be obtained. In opinion No. S-1195, issued January 13, 1977, my predecessor advised that a settlement agreement approved by the Industrial Commission that recites that a member of the State Employees' Retirement System of Illinois was killed or injured in the course of his employment, satisfies the requirement of an adjudication or ruling.

Section 14-129 of the Code also provides that payments under the Act shall be offset by any awards from either the Illinois Workers' Compensation Act or the Workers' Occupational Diseases Act, whichever applies:

"

* * *

Any amount provided for a member or his dependents under those Acts shall be applied for the period of time prescribed by such Acts for payments thereunder as an offset to any occupational disability or occupational death benefit or to a survivors annuity or annuities provided in this Article in such manner as may be prescribed by the rules of the board.

* * *

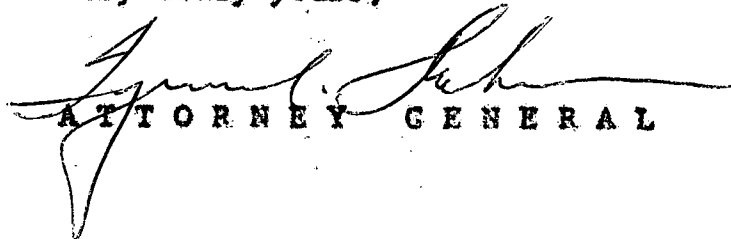
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From the above discussion it is clear that the action of the Industrial Commission in approving a lump sum settlement agreement has a very limited effect. The action of the Commission with respect to the System's disability benefit liability does constitute a satisfactory adjudication under section 14-129

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of the Code making it possible for the State Employees' Retirement System to take action on a claim for disability benefits. Further, the amounts paid under a settlement agreement are to be offset against the occupational disability benefit provided in section 14-123 of the Code. The amount of occupational disability benefits provided by the State Employees' Retirement System, the time at which they start and the time at which they end, lies solely in the control of the State Employees' Retirement System, and is affected by the settlement agreement only to the extent of offsetting duplicate benefits.

Very truly yours,



ATTORNEY GENERAL