

Opinion No. 53-5811

September 8, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Epigmenio Ramirez Executive Secretary Public Employees Retirement Association of New Mexico Santa Fe, New Mexico

{*218} You have requested this office to advise you as to whether the additional \$ 50.00 per month annuity provided by Section 13.1 of Chapter 162, Laws of 1953 is constitutionally objectionable.

This office has previously advised you that such payments cannot be made to persons retired before the effective date of this Act. It is equally clear that persons who wish to retire under Chapter 162, Laws of 1953 must be employed by the State of New Mexico after the effective date of the Act. However, persons who terminated their employment before the effective date of the new Act and met all requirements {*219} of the old law can be retired under the old law without being reemployed.

Insofar as persons falling into categories other than those already retired, we find nothing objectionable in the Act. The question is one of legislative classification and under the broad powers given the Legislature to classify subjects, we cannot say that the additional \$ 50.00 a month payment to persons having served the State in excess of thirty years is arbitrary.

It is therefore the opinion of this office that the portion of Section 13.1, Chapter 162, Laws of 1953 awarding an additional retirement annuity of \$ 50.00 per month to persons having been employed by public employers is constitutional and should be paid to any public employee who has been employed after the effective date of the Act, and who, upon retirement, has served the required length of time.

By: Walter R. Kegel

Assist. Attorney General