

Opinion No. 57-132

June 13, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Hilario Rubio, Assistant Attorney General

TO: Mr. Wayne L. Mauzy, Acting Director, Museum of New Mexico, Santa Fe, New Mexico

QUESTIONS

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Will employees of Museum of New Mexico who are hired after July 1, 1957, be covered under House Bill No. 134, which will be Chapter 197, New Mexico Session Laws of 1957, and which will be known as the Educational Retirement Act?

CONCLUSION

No, after July 1, 1957.

OPINION

ANALYSIS

Subsection A and B of Section 2 of Chapter 197, New Mexico Session Laws of 1957, under definitions as used in the Educational Retirement Act, reads as follows:

"A. 'Member' shall refer to any employee covered by the provisions of the Educational Retirement Act.

"B. 'Regular Member' shall refer to: (1) full time teaching or administrative employees of the educational institutions enumerated in Article 12, Section 11 of the Constitution of New Mexico and the eastern New Mexico normal, and

"(2) Full time employees of the state or public school districts or boards of education who are employed as teachers or administrators and are holders of regular teachers' or administrators' certificates issued by the state board of education, excluding county school superintendents who have no rural schools under their supervision."

Article 12, Section 11 of our New Mexico Constitution specifically enumerates the State Educational Institutions and the Museum of New Mexico is not mentioned.

It is evident that the purpose of the Educational Retirement Act is to provide a new system of retirement for people employed as teachers and administrators of State

Educational Institutions enumerated in Article 12, Section 11 of our New Mexico Constitution, and employees of the State and public school districts or boards of education who are employed as teachers and administrators holding certificates from the State Board of Education. See Section 2 B, Chapter 197, New Mexico Session Laws 1957.

Provision was made for presently eligible members of the old retirement system to continue as members of the new system provided they made an election to so continue. Section 2 C. Chapter 197, New Mexico Session Laws 1957.

Present employees of the Museum of New Mexico are certified by the State Board of Education and are only provisional members of this new retirement system as a result of their having been members in the old teachers retirement system. Employees of the Museum of New Mexico therefore hired subsequent to July 1, 1957 (the effective date of Chapter 197, Laws 1957) are not eligible to become members of the old retirement system inasmuch as it has been repealed and **are not** by the terms eligible to become regular members of the new educational retirement act, namely Chapter 197, New Mexico Session Laws 1957. We therefore, conclude that employees hired by the Museum of New Mexico after July 1, 1957, are not covered by Chapter 197, New Mexico Session Laws 1957.