

### Teachers—Teachers' Retirement Act—Amendment.

Teachers who come under the provisions of the Teachers' Retirement Act prior to the time it was amended in 1927 are subject to the law as amended the same as are teachers coming under it after its amendment.

Miss Jessie McKenna,  
Clerk of Teachers' Retirement Board,  
Helena, Montana.

October 22, 1930.

My dear Miss McKenna:

You have submitted to this office the following question:

“When the pension law was passed originally, every Montana teacher was allowed to choose whether he or she would come under the law as made. The condition was twenty-five years of service and no age limit.

“Are teachers who **signed** up for the original pension bill subject to the age limit of 55 years, now in the amended law, and must they show thirty years of teaching, counting nine months only out of every calendar year?

“The claim is being made that the terms of the original contract hold. Some teachers have completed twenty-five years now who did not have the required time when the law was amended in 1927.”

No teacher by accepting the provisions of the original retirement act acquired any vested right in either the fund accumulated or the general plan of payment until the expiration of her term of required teaching. If upon earning retirement there was sufficient funds available to pay all who had earned retirement in full, then the interest became vested to that extent or to whatever extent funds were available if less than sufficient to pay all in full. It evidently became, after a number of years, apparent that the plan at first adopted would not meet in full the claims of all retiring in twenty-five years. It therefore became necessary to make some changes in the original plan. One of those changes was to require thirty years of service instead of twenty-five. But if no change could be made in the years of service required as to teachers then under the act because they had been promised retirement in twenty-five years there was no manner of forestalling bankruptcy of the fund even though it was apparent that retirement salaries could not be paid on the basis of twenty-five years

teaching service. It was either a case of going into bankruptcy or changing the plan.

When it became apparent that a change in the plan was necessary those who lacked one, two, three, or four years or more of retiring would be in no better situation than the teacher who had just commenced to teach under the retirement act.

It is therefore my opinion that teachers who came under the provisions of the retirement act prior to the time that it was amended in 1927 are in no different situation regarding the time of service that is now required than are those who came under it after it was amended.

Very truly yours,

L. A. FOOT,  
Attorney General.