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SPRINGFIELD

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FILE NO. S-441

**PERSONNEL:**  
**Compulsory Retirement of State Employees**

Mr. Milton D. Thompson  
Museum Director  
Illinois State Museum  
Springfield, Illinois 62706

Dear Mr. Thompson:

I have your recent letter concerning the above  
subject wherein you state as follows:

"Presently the administrators and members of the Board of the Illinois State Museum are interested in establishing a general retirement policy and, more specifically in determining an age at which a Museum employee might be retired. As you know, the State of Illinois has not established, with few exceptions, a compulsory retirement age for employees. One of these exceptions is stated in Article 15, State Universities Retirement System (Illinois Revised Statutes 1969, 2, Chapters 57-121: p. 1537, 15-135, Retirement annuities -)

and involves the State Geological, Natural History and Water surveys among others. Retirement age is set at 68, subject to special deferments.

"For your information, I am enclosing a statement relative to the 'History and Duties of the Board of the Illinois State Museum'.

"We would, therefore, appreciate an Opinion from you as to whether or not the Board of the Illinois State Museum can officially establish a retirement policy, and set an age for compulsory retirement, for Museum employees under their jurisdiction."

Your reference to the fact that the law does not provide a general compulsory retirement age for state employees is noted. The exception to this general rule referred to in your letter is, of course, a special Act and is controlling only as to employees within such Act.

Similar provisions are found in other state statutes. For instance, "An Act relating to the compulsory retirement of judges"; provides a compulsory retirement age for judges.

Ill. Rev. Stats. 1971, ch. 37, pars. 23.71, 23.72.

The legislative treatment of this subject in special cases would seem to suggest that the General Assembly has taken the position that regulations of this character should be legislative rather than administrative. In this

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connection your attention is called to the well established rule that a state officer must find the source of authority for his acts in the statute conferring it. It has been held that statutes delegating powers to public officers must be strictly construed and all parties interested must look to the statute for the grant of power. Diederich v. Rose, 228 Ill. 610; People v. Economy Power Co., 241 Ill. 290; People v. Shrout, 335 Ill. App. 509.

In the case of People v. Righeimer, 298 Ill. 611 the court at page 618 said:

"It is fundamental that every administrative agency of the State must find the source of its authority in the statute conferring it and can only exercise the power conferred in conformity with the statute."

In applying the above rule to the present case it is noted that a careful search of the statutes does not disclose any such authority delegated to the Board of the Illinois State Museum.

In reaching an answer to your inquiry, legislative history also appears to be significant. For several years the Statutes provided for the compulsory retirement of state employees. This requirement continued until 1957, Ill. Rev.

Stat. 1955, ch. 127, par. 220.) In the 1955 statute, supra, it was provided that:

"Any member except an elective official described in Section 4.1 shall be compulsorily retired from service upon attainment of the age of 70 years if such member shall then have completed at least 15 years of creditable service, or upon completion of 15 years of creditable service after attainment of said age."

On June 26, 1957 House Bill 404 and House Bill 756 amending the language set out in paragraph 220, supra, became law with the approval of the Governor. In addition to other changes in the language, each of the Bills amended the law by deleting the statutory language quoted above. This action clearly had the effect of abolishing the requirement for compulsory retirement of state employees because of age. Our courts have held that where by amendment words are deleted or added to the statute it must be concluded that the legislature deliberately intended to change the law. (See Tower v. Schull, 3 Ill. App. 2d 358 and McLaughlin v. People, 403 Ill. 493.) As you may know, Bills have, from time to time since 1957, been introduced in the General Assembly that had as their purpose, the reestablishment of a compulsory retirement age for state employees. None of these Bills have, however, been

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enacted into law and the statutory provisions that originally contained the compulsory retirement provision remain in the statutes but are silent as to this particular point. They have been transferred to the portion of the statutes dealing with pensions. Ill. Rev. Stat. 1971, ch. 108 1/2, par. 14-148 and 14-149.

From the foregoing I conclude, and am of the opinion that, the Board of the Illinois State Museum does not have authority to establish a compulsory retirement age for retirement of the state employees under their jurisdiction.

Very truly yours,

A T T O R N E Y   G E N E R A L