

JUNE 20, 1949.

MR. GEORGE M. BORDEN, *Secretary,*
State Employees' Retirement System,
1 West State Street,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 66.

MY DEAR MR. BORDEN :

I have your letter of the 15th instant, from which it appears that Hon. John L. Hughes, Judge of the Third Judicial District Court of Union County, was admitted to membership in your Retirement System.

Judge Hughes having received his appointment from the Governor, with the advice and consent of the Senate, is a State officer, but his compensation is paid by the County of Union. No question is raised as to the right of Judge Hughes to membership in your Fund. The sole question, I understand, is whether Judge Hughes is entitled to credit for service which he rendered as Attorney for the Borough of New Providence. It appears that Judge Hughes was appointed as such attorney on April 6, 1926, but was not the Borough Attorney at the time New Providence adopted the provisions of your act. I do not see how the Borough of New Providence can certify him as a member.

Judge Hughes in his correspondence refers to R. S. 40:11-5, but that section has not the slightest application to a State officer. As I have already indicated, he received his appointment from the State and is, therefore, a State officer. See *Pierson vs. O'Connor*, 54 N. J. Law 36.

In my opinion, Judge Hughes is not entitled to any credit for service which he may have rendered to the Borough of New Providence.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: THEODORE BACKES,
Deputy Attorney General.

TB:S