

JULY 1, 1949.

MR. GEORGE M. BORDEN, *Secretary,*  
*State Employees' Retirement System,*  
 1 West State Street,  
 Trenton 7, New Jersey.

## FORMAL OPINION—1949. No. 71.

MY DEAR MR. BORDEN :

I have your letter of the 27th ult. with enclosure of letter from your actuary, Mr. Buck, from which it appears that some of our counties and municipalities adopted the provisions of your Retirement System Act at the general election in November, 1948, and that the action of the legal voters became effective in the counties or municipalities so adopting on June 30th of the following year, that is yesterday. It also appears that at the last session of the Legislature, Chapter 28 was enacted to take effect this date, that is July 1, 1949. Chapter 28 amended section 43:14-1 of your Retirement System act and provided that regular interest should mean 3% per annum compounded annually in the case of members enrolled in the Retirement System on and after July 1, 1949, and in the case of all others, interest at 4% per annum compounded annually.

It also appears that some of the counties and municipalities adopting your act sent in applications of some of their employees for membership in your fund, such applications being received on or before June 30, 1949. With respect to these employees, as Chapter 28 of the Laws of 1949 did not become effective until this date, to wit, July 1, 1949, the interest rate of 4%, in my opinion, prevails. With respect to all employees enrolled on or after this date, to wit, July 1, 1949, the interest rate of 3% must prevail.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General,*

By: THEODORE BACKES,  
*Deputy Attorney General.*

TB:B

JULY 5, 1949.

HON. J. LINDSAY DEVALLIERE, *Director,*  
*Division of Budget and Accounting,*  
*Department of the Treasury,*  
 State House,  
 Trenton, New Jersey.

## FORMAL OPINION—1949. No. 72.

DEAR SIR :

The Honorable Frank J. Pfaff, a member of the Union County Board of Taxation, has applied for membership in the State Employees Retirement System. You

have inquired (a) who is the proper person to certify as to his employment and service record, and (b) whether the applicant is eligible for membership in the State Retirement System.

A county board of taxation, although an integral part of the State tax system, is created by law as a body independent of and separate from any other department of the State government. Its members are appointed by the Governor with the advice and consent of the Senate, and the term of office of each member, as well as his salary, is fixed by statute. (N. J. S. A. 54:3-2, 3, 6.) The board elects its own president from among its members (54:3-5), and appoints its own secretary and clerical assistants (54:3-7). Its function is to secure the taxation of all property in the county at its true value (54:3-13), and to accomplish this end, it is vested with supervision and control over all officers charged with the duty of making assessments in the county (54:3-16), and is given jurisdiction to hear and determine appeals from assessments (54:3-21, 22).

In my opinion, if the applicant for membership in the State Employees Retirement System is a member of the County Board of Taxation other than the president, the president of the board is the proper person to certify the application. If the applicant is the president of the board, the other members thereof should certify to that fact in writing, and their signatures should be attested by the clerk of the board.

As to whether Mr. Pfaff is eligible for membership in the State Retirement System, the statute (43:14-2) provides that the Board of Trustees "may deny the right to become members of the retirement system . . . to any class of persons not within the classified civil service." Since the applicant here, being a member of a State board appointed by the Governor, is not within the classified service (11:4-4), it is optional with the Retirement Board as to whether or not the application for membership will be granted.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General,*

By: THEODORE BACKES,  
*Deputy Attorney General.*

July 7, 1949.

HON. WILLARD G. WOELPER,  
*Administrative Director of the Courts,*  
State House Annex,  
Trenton, New Jersey.

FORMAL OPINION—1949. No. 73.

DEAR SIR:

Your letter of June 24, 1949, requesting an opinion concerning payment to official stenographic reporters is herewith acknowledged.

The facts in question are as follows:

One of the stenographic reporters, who was a proxy prior to September 15, 1948, has been ill for some time and therefore unable to pursue his duties as such reporter.