

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,  
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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.

The questions presented are:

1. Does the administrative director have control over payments by the county?
2. Is the reporter in question entitled only to the usual sick leave pursuant to civil service regulations and should the director of the courts notify the County Treasurers that the State will not refund any sum paid in compensation to such reporter in excess of the usual sick leave, pursuant to Chapter 376, Laws of 1948?

The answer to the first question is that the director does not have control over payments made by the county. The counties have their own fiscal set-up and are authorized to disburse their funds exclusive of authority from the State Treasurer's office.

The answer to the second query is that you should notify the County Treasurers that the State will not refund any sums paid by counties through their generosity, when compensation has been made to such reporter in excess of the reasonable sick leave term set down by the administrative director.

The civil service regulations do not obtain as far as official stenographic reporters are concerned. These reporters come under the act to create a State Board of Shorthand Reporting. Therefore, the civil service regulation with reference to the right of compensation during sickness is inapplicable.

However, the Laws of 1948, Chapter 376, gives the administrative director wide latitude concerning the control and operations of official stenographic court reporters. It would seem that he could and should determine the policy of compensation of reporters during sickness and set down what he considers a reasonable period of time commensurate with the length of employment of the reporter. He should notify the County Treasurers that any payment made by them beyond the reasonable period already determined will be strictly for their own account and that the State Treasurer will not reimburse any county (paragraph 9 g, Chapter 376, Laws of 1948) for any voluntary payment made by said county in excess of the reasonable period decided upon.

Respectfully submitted,

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