

3397.

APPROVAL, BONDS, EUCLID CITY SCHOOL DISTRICT,  
CUYAHOGA COUNTY, OHIO, \$12,000.00, DATED MARCH  
19, 1930.

COLUMBUS, OHIO, December 13, 1938.

*Retirement Board, State Public School Employes Retirement System,  
Columbus, Ohio.*

GENTLEMEN:

RE: Bonds of Euclid City School Dist., Cuyahoga  
County, Ohio, \$12,000.00.

The above purchase of bonds appears to be part of an issue of the above school district dated January 1, 1930. The transcript relative to this issue was approved by this office in an opinion rendered to the Teachers Retirement System under date of March 19, 1930, being Opinion No. 1638.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said school district.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

3398.

PUBLIC EMPLOYES RETIREMENT SYSTEM—MEMBERSHIP  
—BOARD AUTHORIZED TO EXEMPT FROM COMPUL-  
SORY MEMBERSHIP WHERE WORK IS OF CASUAL  
NATURE—PRECINCT ELECTION OFFICIALS—INDI-  
VIDUALS OF A CLASS—BOARD MAY GRANT OR RE-  
FUSE APPLICATION.

*SYLLABUS:*

1. *The Public Employes Retirement Board is authorized to exempt from compulsory membership as a class precinct election officials whose work is of a casual nature.*

2. *Such board may either refuse or grant the application of individuals of a class exempted from compulsory membership to become members of such Public Employes Retirement System.*

COLUMBUS, OHIO, December 14, 1938.

HON. WILSON E. HOGE, *Secretary, Public Employes Retirement Board, Columbus, Ohio.*

DEAR SIR: This will acknowledge receipt of your letter of recent date which reads as follows:

"We have received an application for original membership in the Public Employes Retirement System from P. H. S. He bases his claim to having been an employe at the time necessary to become an original member on the appointment by the Board of Elections as a Judge of Elections.

Mr. S.'s record shows that he has not been a regular employe of the county or municipality since June 18, 1932. However, as the enclosed certificate of appointment will show, on September 1, 1937, and again on September 1, 1938, he was appointed for a one-year term as a Judge of Elections, in spite of the fact that he only worked on the election day. Inasmuch as he worked only on election days, he did not actually work, nor was he paid for any service between April 18, 1938 and June 30, 1938, the period during which the person must have been an employe in order to qualify for original membership.

The question is: Will the appointment of Mr. S. as this Judge of Election on September 1, 1937, for one year from that date be sufficient for this office to consider him as an employe on April 18, 1938, at which time the law became effective?"

Under Section 4785-25, General Code, the county board of elections by a majority vote is required to appoint for each election precinct competent persons who constitute the election officers of such precinct. The term of office of such precinct officers is for one year, subject to removal at any time by the board of elections. Under Section 4785-26, General Code, a person when appointed as an election officer receives from the board of elections a certificate of appointment setting forth among other things the date of appointment and the expiration of his term of office. Section 4785-28, General Code, fixes the compensation for the services of a precinct official. The compensation of judges and clerks of elections is paid, as are other expenses of a board of elections, from the county treasury pursuant to appropriations made by the county commissioners.

The State Employees Retirement System, created by Section 486-33, General Code, was changed to the Public Employees Retirement System and was enlarged to provide benefits not only to state employes but employes of other political subdivisions, including county employes.

Section 486-33c, enacted in 117 O. L., defines county or municipal employes within the meaning of the Public Employees Retirement Act as follows:

“For the purpose of this act, ‘county or municipal employes’ shall mean any person holding a county or municipal office, not elective, in the state of Ohio, and/or paid in full or in part by any county or municipality in any capacity whatsoever.”

In view of the definition above stated, it is quite apparent that an election official appointed by a county board of elections for a definite period and whose compensation is paid from an appropriation made by the county commissioners is a county employe.

The legislature, in providing for the Public Employees Retirement System, recognized the necessity of exempting certain classes of employes from compulsory membership in the Retirement System and provided under Section 486-33c as follows:

“\* \* \* The board shall have authority to exempt from compulsory membership in the retirement system classes or groups of employes engaged in work of a temporary, casual or exceptional nature, but individuals in any such class or group may become members by making application therefor subject to the approval of the retirement board; \* \* \*.”

It is evident from the above language that the Public Employees Retirement Board has the authority to exempt as a class employes, such as precinct election officials, who are required to serve on two or three occasions during the period of their term of office, from compulsory membership in the system. However, the individual precinct election official may make application for membership in the retirement system and under such circumstances the approval of the retirement board is necessary before the person may become a member of such system. In my opinion, it is within the province of the Public Employees Retirement Board to either refuse or grant the application of individuals of a class exempted from compulsory membership to become members of such system.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*