

1978 WL 35197 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 2, 1978

\*1 Purvis W. Collins  
Director  
South Carolina Retirement System  
Post Office Box 11960  
Columbia, South Carolina 29211

Dear Mr. Collins:

You have asked whether a member of the Retirement System who served as a member of the Cherokee County Hospital Board may be granted credit for that service. Both the original act creating the Cherokee County Hospital Board (Act No. 185 of 1941) and the later act which superseded the prior act (Act No. 185 of 1941) and the later provide for per diem payments to members of the Board. The earlier statute, under which part of the member's service took place, provides that each member of the Board shall be paid 'a salary of \$3.00 per diem' not to exceed twelve days in any given year. The Budget and Control Board by regulation (No. 111-14) provides that 'services rendered which are remunerated solely by per diem shall not be considered creditable service for retirement purposes.' While per diem payments can and have been regarded as salary, see [Scroggie vs. Scarborough](#), 162 S.C. 218, 160 S.E. 596 (1931), the effect of the Budget and Control Board regulation is to exclude all per diem from being considered creditable service for retirement purposes. It is therefore the opinion of this Office that under the Budget and Control Board regulations, such service is not covered for retirement purposes.

Sincerely yours,

Kenneth P. Woodington  
Assistant Attorney General

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