

1976 S.C. Op. Atty. Gen. 315 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4455, 1976 WL 23072

Office of the Attorney General

State of South Carolina

Opinion No. 4455

September 20, 1976

***1 RE: Employer contributions for non-member service**

Mr. Purvis W. Collins
S. C. Retirement System
Bankers Trust Tower
P. O. Box 11960
Columbia, South Carolina 29211

Dear Mr. Collins:

You have requested an opinion concerning whether or not the South Carolina Retirement System is authorized to require current employers to make a contribution when a member purchases non-member service.

Section 61–37 of the 1962 Code of Laws (as amended) allows a political subdivision to become an employer within the Retirement System by applying for admission and by complying with the requirements and rules and regulations of the Board. Further, Section 61–54 of the Code provides that the political subdivisions can avail themselves of the provisions of Section 61–37 without loss or prejudice to employees' claims for prior service credits 'but such electing employers . . . shall be subject to the payment of such contributions . . .' In light of these statutory provisions, it is clear that the employers who elect to come within the system obligate themselves to pay these contributions under Section 61–54. Furthermore, it logically follows that the current employer has the obligation to pay these prior service contributions in that the contribution does not become due and payable until the employee elects to purchase the non-member service. Legislative intention of the above-mentioned statutes clearly dictates that the current rather than the former employer be required to make the contribution when a member of the Retirement System purchases non-member service.

Therefore, it is the opinion of this Office that the South Carolina Retirement System is authorized to require current employers to make a contribution when a member purchases non-member service pursuant to the provisions of Section 61–54.

Very truly yours,

H. Michael Bowers
Staff Attorney

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