

**Opinion No. 54-6063**

December 22, 1954

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. John C. Hays Executive Secretary Public Employees' Retirement Association  
P. O. Box 925 Santa Fe, New Mexico

{\*539} In your letter dated December 16, 1954, you state that a member of the Association since January 1, 1951 has requested service credit for the period from August 1, 1947 to June 30, 1949, during which time said person was a County Commissioner. You are wondering whether service credit may be given for this period to an elective officer.

Chapter 167, Laws of 1947, was the original Employees' Retirement Act and specifically excluded elective officers of the State, county or municipalities. Chapter 174, Laws of 1949, amended the 1947 Act to authorize elective officers to become members of the Association. However, as to county or municipal elective officers, the following language appears in Section 2 of the 1949 Act:

"Any elective officer of county, city or municipal governments, at his or her option, on written application, shall become eligible for membership, upon taking office as the result of any election held subsequent to the effective date of this amendment."

Since the 1949 Act did not become effective until around June 15, 1949, elective county officers would not be eligible to membership until January 1, 1950. Since the original Act excluded elective county officers from membership and they could not be eligible for membership until January 1, 1950, the period from August 1, 1947 to December 31, 1949 cannot be credited to an elective county officer as service credit.

By: C. C. McCulloh

Assist. Attorney General