

Opinion No. 56-6546

November 26, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. John C. Hays, Executive Secretary, Public Employees Retirement Ass'n, P. O. Box 2237, Santa Fe, New Mexico

Receipt is acknowledged of your letter dated November 7, 1956, in which you request an opinion on the following question:

An employee of the Antelope Valley Irrigation District at Maxwell, New Mexico, has applied for superannuation retirement and is claiming approximately 16 years prior service with the District. You request an opinion as to whether or not this employee should be allowed this service credit and if the Antelope Valley Irrigation District is considered a public employer under our Retirement Act.

In § 5-5-1, N.M.S.A., 1953 Compilation, under heading "Definitions", are found the following:

"(3) 'State' means the state of New Mexico, and includes its boards, departments, bureaus and agencies.

"(4) 'Municipality' means any municipality, city, county and conservancy district in the state of New Mexico, including the boards, departments, bureaus and agencies of the said municipality, city, county or conservancy district.

"(5) 'Public employer' means the state of New Mexico or any municipality in the state of New Mexico."

In the above quoted section of the Retirement Act, an irrigation district is not defined as a public employer.

It is, therefore, the opinion of this office that, in view of the above quoted definitions, that the member of the Antelope Valley Irrigation District is not entitled to service credit, and it follows that the Antelope Valley Irrigation District is not a public employer under the Public Employees Retirement Act.

Trusting this fully answers your inquiry, we remain

By Hilario Rubio

Assistant Attorney General