

Opinion No. 88-26

April 7, 1988

OPINION OF: HAL STRATTON, Attorney General

BY: Andrea R. Buzzard, Assistant Attorney General

TO: Mr. Carlos A. Gallegos, Executive Secretary, Public Employees' Retirement Association, P.O. Box 2123, Santa Fe, NM 87504-2123

QUESTIONS

May Mr. Joe R. Pena purchase early retirement before June 1, 1988, and serve without pay the remainder of his elective term, which ends December 31, 1988?

CONCLUSIONS

No.

ANALYSIS

1987 N.M. Laws, ch. 253, § 139 provides:

A member may purchase not more than five years of credited service during the seventy-fifth or seventy-sixth fiscal year subject to the following conditions:

A. the member has five or more years of credited service acquired as a result of personal service rendered in the employ of an affiliated public employer;

B. the member reinstates all forfeited credited service;

C. the purchase cost for each year of credited service purchased under the provisions of this section is an amount equal to the member's final average salary multiplied by the sum of the member contribution rate and the employer contribution rate for the coverage plan applicable to the member; and

D. the purchase cost shall be paid to the association in one payment and the **member shall retire the first day of the month following payment of the purchase cost.**

(emphasis supplied.)¹ Mr. Pena, should he purchase early retirement before June 1, 1988, must retire, i.e., terminate permanently his employment with McKinley County, the first day of the month after he purchases this service. See Op. Att'y Gen. 87-14. Mr. Pena, therefore, may not purchase service allowed by section 139 and continue employment with McKinley County without pay.

ATTORNEY GENERAL

HAL STRATTON Attorney General

GENERAL FOOTNOTES

[n1](#) Section 139 expires June 30, 1988.