

PUBLIC SCHOOL RETIREMENT )  
SYSTEM:

) Trustee of PSRS appointed by State  
) Board of Education who is resident  
of school district included in re-  
tirement system but not employee  
thereof, is qualified to hold that  
office.

April 10, 1946



4-12

Mr. Uel W. Lamkin, Trustee  
Public School Retirement System  
State Teachers College  
Maryville, Missouri

Dear Mr. Lamkin:

We heroby acknowledge receipt of your request  
for an opinion, which reads as follows:

"The State Board of Education, as  
you know, named me to serve on the  
Board of Trustees of the Public  
School Retirement System of Missouri.  
I qualified as prescribed by the  
law. Since I qualified, the General  
Assembly passed an Act, House Bill  
642, which the Governor signed, with  
the emergency clause, the effect of  
which is to include the Teachers  
Colleges of the State, they having  
been expressly excluded under the  
terms of the original bill.

"My inquiry is as to whether or not  
I am still eligible to serve as a  
member of the Board of Trustees.

"For your consideration, may I say  
that for nearly twenty-five years I  
have been employed by the State  
Teachers College at Maryville, Mis-  
souri.

"That on September 17, 1945 the Board  
of Regents, the governing body of the  
College, passed Resolution No. 254,  
from which the following paragraph is  
quoted:

"Resolution #254. In accordance with the previously expressed wish of President Uel W. Lamkin, who has for almost a quarter of century faithfully served the College, that he be relieved and retired from the duties of President, it is deemed by the Board wise and proper that his wishes be granted, and he be relieved from such duties. That he be retired as President Emeritus on a half-time basis, in accordance with the resolution as adopted by the Board at their meeting hold last April 9, 1945. That such retirement to become effective December 1, 1945. That for the present the only duty assigned to him is the completion of the V-12 program and final audit.

"The law, as amended by House Bill No. 642, Sec. 1, provides that

"(3) "Employee" shall be synonymous with the term "teacher" as herein-after defined.'

"(6) "Teacher" shall mean (one)  
\* \* \* who shall teach or be employed  
\* \* \* on a full time basis,' etc.

"(8) "Member" shall mean a person who holds membership in the retirement system.'

"The original Act-H. Bill 151, provided for a Board of Trustees consisting of five persons, two of whom were to be elected by the members of the retirement system and two to be appointed by the State Board of Education. Section 2, (2)

"Section 2, (4) of the Act provided that 'Trustees appointed by the State Board of Education shall be residents of school

districts included in the retirement system, but not employees of such district. Those elected shall be members of the retirement system.'

"Under the definitions cited supra, 'employee' is synonymous with 'teacher.' 'Teacher' is defined as one who is employed 'on a full time basis.' My employment, since December 1, 1945, has been on a half-time basis.

"I am not anxious to stay on the Board. I am willing to do so in order to render service to the schools of the State. But there should be no question as to my eligibility if I do so."

The Board of Trustees of the Public School Retirement System is composed of five members as established by Subsection (2) of Section 2 of House Bill 151, which provides:

"(2) The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this Act are hereby vested in a board of trustees of five persons, as follows: (a) two persons to be appointed as trustees by the State Board of Education; (b) two persons to be elected as trustees by the members of the retirement system; (c) the State Superintendent of Public Schools or Commissioner of Education who shall serve as trustee by virtue of his office."

Your request informs us that you were appointed by the State Board of Education. We believe the pertinent part of House Bill 151 in that instance to be Subsection (4) of Section 2 thereof, which states:

"(4) Trustees appointed by the State Board of Education shall be residents of school districts included in the retirement system, but not employees

Mr. Uel W. Lamkin, Trustee - 4

of such districts. Those elected shall be members of the retirement system." (Underscoring ours.)

House Bill 642, to which you refer, undertakes to define certain terms used throughout House Bill 151 but it does not establish the prerequisites to becoming a member of the Board of Trustees as an appointee of the State Board of Education.

With reference to Subsection (4) of Section 2, supra, you are a resident of the "school district included in the retirement system" and are not an employee of such district, which we believe satisfies the qualifications set out in the last mentioned subsection.

#### Conclusion

It is, therefore, the opinion of this department that under Subsection (4) of Section 2 of House Bill 151, one who is a resident of a school district but not an employee of such district is qualified to be appointed by the State Board of Education as a Trustee of the Public School Retirement System.

Respectfully submitted,

J. MARTIN ANDERSON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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