

May 21, 2001

OPINION NUMBER 01-131

E. Pete Adams
Director
District Attorneys' Retirement System
1645 Nicholson Drive
Baton Rouge, Louisiana 70802

92-A-2-(C) RETIREMENT – DISTRICT ATTORNEYS
La. R.S. 11:153; La. R.S. 11:153.1

A member of the District Attorneys' Retirement System may purchase credit for service in the State National Guard unless he has previously received credit for such in any other public retirement system, including a retirement plan for members of the armed forces of the United States, from which plan the member is drawing a regular retirement benefit based on age and service.

Dear Mr. Adams:

We received your request for an opinion regarding the interpretation and application of La. R.S. 11:153.1. It is our understanding, per your request, that a member of the District Attorneys' Retirement System would like to purchase retirement credit for time that he served in the Louisiana National Guard. The system questions if La. R.S. 11:153.1 forbids a person from purchasing retirement credit for four years of service with the Louisiana National Guard which was accumulated while the person was an active member of the District Attorneys' Retirement System.

La. R.S. 11:153.1 provides that any member of a state or statewide public retirement system, i.e., the District Attorneys' Retirement System, **shall** be eligible to purchase credit for service in the State National Guard. The statute further provides that: "Any such employee **shall** be entitled to purchase military credit in the applicable state or statewide public retirement system based on his accrued points and in an amount equal to one day of retirement credit for each point, not to exceed a total of four years of retirement credit. Any purchase of credit shall be subject to the provisions of La. R.S. 11:153(E), (F), and (G)." La. R.S. 11:153(E) specifically provides that there shall be no duplication of credit for military service and that no member shall be entitled to purchase or receive credit for military service if he has previously received credit for such in any other public retirement system or pension fund, including any retirement plan for members of the armed forces of the United States, from which plan the member is drawing a regular retirement benefit based on age and service.

In light of the above, it is clear that a member of the District Attorneys' Retirement System is eligible to purchase credit for service in the State National Guard. The language is mandatory. Such purchase, as outlined in the statute, cannot exceed a total of four years of retirement credit. A member cannot purchase or

receive credit for military service if he has previously received credit for such in any other public retirement system, which includes any retirement plan for members of the armed forces of the United States, from which plan the member is drawing a regular retirement benefit based on age and service. There is no exception for time which was accumulated while the person was an active member in a statewide public retirement system. The only exception, in your situation, is if the member is drawing a regular retirement benefit, based on age and service, from the Louisiana National Guard. Thus, it is our opinion that La. R.S. 11:153.1 does not forbid such a purchase.

If you have any questions or comments, please do not hesitate to contact our office.

With kindest regards,

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

BY:

TINA VICARI GRANT
Assistant Attorney General

RPI/TVG:crt

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SYLLABUS

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AUTHOR:

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