

July 25, 2005
OPINION 05-0278

Honorable Judith W. Dugar
Clerk of Court
727 South Broad Street
New Orleans, LA 70119

10 Clerks of Court
61 Laws
92-A-1-b Retirement
R.S. 11:1511
Appointed clerk of traffic court for City of New Orleans is required by law to become a member of the Clerks' of Court Retirement and Relief Fund.

Dear Ms. Dugar:

You have asked this office to advise you whether you as newly appointed Clerk of Court for the City of New Orleans Traffic Court are required to become a member of the Clerks' of Court Retirement and Relief Fund pursuant to R.S. 11:1511. This statute provides:

§1511. Membership

The clerk of the supreme court, each of the courts of appeal, each of the district courts, and each of the city and traffic courts in cities having a population in excess of four hundred thousand, and the employees of such clerks, whether full-time or part-time, and the employees of the Louisiana Clerks of Court Association, the Louisiana Clerks' of Court Retirement and Relief Fund, and the Louisiana Clerks of Court Insurance Fund, shall become and be a member of the system during service as such.

The word "system" in R.S. 11:1511 means the Clerks' of Court Retirement and Relief Fund. See R.S. 11:1503(10).¹ Further, rules of statutory construction dictate that the use of the word "shall" is mandatory. See R.S. 1:3.

The legislature has mandated that the clerks of the traffic courts in cities having a population in excess of four hundred thousand become a member of the Clerks' of Court Retirement and Relief Fund during the time that person serves in that capacity. State law is controlling over city ordinances to the contrary; thus, you must become and remain a member of the system during your term as clerk pursuant to R.S. 11:1511.

¹ R.S. 11:1503(10) states: "System" means the Clerks' of Court Retirement and Relief Fund.

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In accord is Attorney General Opinion 04-0007, copy attached.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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Date Received:
Date Released: July 25, 2005

KERRY KILPATRICK
ASSISTANT ATTORNEY GENERAL