



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

August 13, 1953

Hon. Everett L. Looney
President
State Bar of Texas
1020 Brown Building
Austin, Texas

Letter Opinion No. MS-83

Re: Several questions regarding participation by employees of the State Bar of Texas in the Employees Retirement System of Texas.

Dear Mr. Looney:

Your recent letter to this department asks the following four questions:

"1. Under the provisions of Article 6228-A, Vernon's Annotated Civil Statutes, and other applicable provisions of law, is the State Bar of Texas authorized and empowered to pay its funds into the Retirement System to match contributions thereto made by its employees?"

"2. Is the State Bar of Texas, and its employees, required by law to participate in the Employees Retirement System of Texas?"

"3. If the State Bar of Texas, and its employees, are required to participate in the Retirement System, and no contributions thereto having heretofore been made on behalf of either, would the State Bar and its employees be required to pay into the Retirement System any sums to cover any part of the period September 1947, when the Retirement System was created, to the present date?"

"4. If contributions for any previous period are not required of the State Bar of Texas, or its employees, may such contributions be made by either?"

It is the opinion of this office that employees of the State Bar of Texas are required by law to participate in the Employees Retirement System of Texas, and that each is required to pay into that System contributions covering his period of employment since September 1, 1947, unless waiver was filed within 90 days after that date.

Contribution by the State Bar of Texas into said Retirement System is consistent with the orderly administration of that

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agency and would be required to place same on equal basis with all other State departments and agencies.

Section 8 of Art. 6228a, V.C.S., while not spelling out the exact mechanics of making contributions from State Bar Funds, does provide that the State contribution, at least matching the employee contribution, should be paid from and charged to the respective funds appropriated, allocated, and provided to pay the salary or compensation of the employee for whose benefit the contribution is made. This does permit recourse to the State Bar Act wherein provision is made for the funds to be expended by the Supreme Court or under its direction for the purpose of the administration of the State Bar Act.

Article X-FISCAL of the Rules of the State Bar of Texas sets up the mechanics of handling such fund.

It is therefore the opinion of this office that the State Bar of Texas is not only authorized and empowered to pay contributions from its funds into the Retirement System, but that it is required to do this to at least equal the contributions of its employees for the full time of their employment subsequent to September 1, 1947.

Therefore your first three questions are each answered "Yes". Your fourth question is thus rendered inapplicable as it is predicted on a negative answer to question No. 3.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By /s/ Horace Wimberly
Horace Wimberly
Assistant

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