



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

January 6, 1977

ATTORNEY GENERAL OPINION NO. 77- 6

Mr. John K. Corkhill
Executive Secretary
Public Employees Retirement System
400 First National Bank Tower
One Townsite Plaza
Topeka, Kansas 66603

Re: Retirement--Judges--Withdrawal of Contributions

Synopsis: An associate district judge who has prior service under the Kansas Public Employees Retirement System and who becomes a member of the retirement system for justices and judges under ch. 146, § 27(b), L. 1976, may withdraw his or her accumulated contributions which are on deposit with the Kansas Public Employees Retirement System.

* * *

Dear Mr. Corkhill:

Ch. 146, § 27(b), L. 1976, provides thus:

"District magistrate judges may become members of the Kansas public employees' retirement system in the manner provided by law for becoming a member thereof. Associate district judges shall become members of the retirement system for justices and judges, and they shall be subject to and covered by the provisions of article 26 of chapter 20 of the Kansas Statutes Annotated. For such purpose, an associate district judge shall be considered as judge

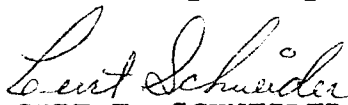
Mr. John K. Corkhill
Page Two
January 6, 1977

of the district court. If, upon entry into the retirement system for justices and judges, an associate district judge has prior service under the Kansas public employees' retirement system, any retirement benefits to which such judge was entitled under the Kansas public employees' retirement system and retirement benefits under the retirement system for justices and judges shall become vested whenever the total service under both systems equal ten (10) years, and upon such judge's retirement, each such retirement system shall be liable for the payment of retirement benefits under such system in the proportion that the years of such judge's service under such system bears to such judge's total years of service under both such systems."

You inquire whether an associate district judge who has prior service under the Kansas public employees retirement system, and who becomes a member of the retirement system for justices and judges under the quoted provision may withdraw his or her accumulated contributions from the Kansas public employees retirement system. As you point out, the quoted provision appears designed to protect the vesting of benefits of members of the Kansas public employees retirement system for justices and judges and who choose to leave their accumulated KPERs contributions on deposit. However, there is no express statutory prohibition against withdrawal under the circumstances described herein, and there is no implied prohibition which is reasonably or necessarily drawn from the language protecting the vesting of benefits for those members who choose to leave their KPERs contributions on deposit.

Finding no statutory inhibition, either express or implied, against such withdrawals, it is my opinion that associate district judges who have prior service under the Kansas public employees retirement system and who become members of the retirement system for justices and judges under the provision quoted *supra* may withdraw their accumulated contributions on deposit with the Kansas public employees retirement system.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

Mr. John K. Corkhill
Page Three
January 6, 1977

cc: Mr. Marshall Crowther
Attorney
Public Employees Retirement System
400 First National Bank Tower
One Townsite Plaza
Topeka, Kansas 66603