

1977 WL 36989 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 13, 1977

\*1 Senator Coleman G. Poag  
Poag Realty Company  
Rock Hill, South Carolina 29730

Dear Senator Poag:

You have requested an opinion concerning the possibility of adding eleven months' service as a city councilman to two months' (November and December) services as a Senator to constitute a year of creditable service for retirement purposes. Officials of the Senate have apparently decided that no salary is due for the remaining two months of 1977.

The difficulty with this proposal is that the act creating the Retirement System for members of the General Assembly (§§ 9-9-10 *et seq.*, 1976 Code) provides for contributions to be made in only two situations which could conceivably apply here. The first is set forth in § 9-9-40(2)(ii), which provides that former members of the General Assembly may contribute the same amount that they would have contributed had they been members, i.e. \$700. The other is the regular method of computing members' contributions, set out in § 9-9-120(2), which provides that 'Each member of the System shall contribute ten percent of earnable compensation in each calendar year . . . ' 'Earnable compensation' means 'forty times the daily rate of remuneration,' § 9-9-10(13), which is \$7000. (According to the case of [Godfrey v. Hunter](#), 176 SC 442, 180 S.E. 468 (1935), the 'annual' salary of legislators is actually a daily rate times forty days). There is no statutory basis for a contribution based on less than the full annual salary. Accordingly, I must conclude that the proposal to convert part of a year of legislative service into creditable service is not legally possible.

Sincerely yours,

Daniel R. McLeod  
Attorney General

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