

FIRE DISTRICTS: A provision for pensioning of salaried employees
COUNTIES: of a fire district who incur non-service connected
PENSIONS: disabilities requiring their retirement from ser-
CLASS ONE COUNTIES: vice of the fire department is within the authority
of the board of directors of a class one county
fire district.

OPINION NO. 30
303(1966)

March 23, 1967

Honorable E. J. Cantrell
Representative, 6th District,
St. Louis County
3406 Airway
Overland 14, Missouri



Dear Representative Cantrell:

This opinion is written in response to your request for an official opinion from this office, which request states as follows:

". . .can the following be incorporated into a pension plan. A provision for pensioning of salaried employees incurring non service connected disabilities requiring their retirement from active service in the department."

More specifically, your request concerns Sections 321.220 and 321.240, RSMo 1959. These sections apply to fire protection districts in class one counties.

Sections 321.220 and 321.240, RSMo 1959, have been revised by Chapter 321, RSMo Cum. Supp. 1965.

Section 321.220, RSMo Cum. Supp. 1965, states in part:

"For the purpose of providing fire protection to the property within the district, the district and, on its behalf, the board shall have the following powers, authority and privileges:

* * * * *

"(15) To provide for the pensioning of the salaried members of its organized fire department of the district and to provide for the payment of death benefits to the widows and minor children of members of its organized fire department who

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lose their lives in the performance of their duties; * * * " (Emphasis added)

Section 321.220 (15), RSMo Cum. Supp. 1965, explains the procedure by which a fire district in a class one county may incorporate a pension provision, and further states:

" * * * If a majority of the qualified voters casting votes thereon at the election be in favor of the question, this subdivision shall take effect in the district forthwith and the board shall then and thereafter effect such a program for the pension and benefit payments authorized at the election as shall be necessary for the operation of the district. * * * "

In an earlier opinion from this office (Opinion No. 329, dated September 27, 1962, and addressed to the Honorable E. J. Cantrell) this office stated at page 4:

" * * * the Legislature of the State of Missouri had constitutional authority to enact subdivision 15 of Section 321.220, RSMo Cum. Supp. 1961 (now Section 321.220, RSMo Cum. Supp. 1965) giving the board of directors of such fire district the power to provide for the pensioning of the salaried members of its organized fire district if such authority is approved or provided therein * * * "

Subsection (14) of Section 321.220, RSMo Cum. Supp. 1965, states:

"(14) To have an exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of sections 321.010 to 321.450; * * * "

Section 321.220, RSMo Cum. Supp. 1965, expressly authorizes "the pensioning of the salaried members of its organized fire department." This language is not limited to service connected disabilities, it broadly provides for pensioning its members. The clause following the above quoted language is limited with respect to death benefits to widows and minor children. However, this limitation does not apply to the first clause of the sentence.

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CONCLUSION

It is the opinion of this office that a provision for pensioning of salaried employees of a fire district who incur non-service connected disabilities requiring their retirement from service of the fire department is within the authority of the board of directors of a class one county fire district.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Gerald L. Birnbaum.

Very truly yours,



NORMAN H. ANDERSON
Attorney General