



Answer by letter-Mansur

2/18/69

OPINION LETTER NO. 109

Honorable William T. Brooking, Jr.
Assistant Prosecuting Attorney
Jefferson County Court House
Hillsboro, Missouri 63050

Dear Mr. Brooking:

On January 17, 1969, you requested an official opinion from this office as follows:

"The County Court of Jefferson County, Mo., is desirous of setting up a Retirement System and Pension plan starting February 1, 1969. In connection with such a plan they are considering following Statute 70.605, which permits any political subdivision of the State to set up a retirement and pension plan, however, in studying this matter, Statute 67.200 concerning pension plans apparently exempts Jefferson County from a pension plan.

"It is requested that a written Opinion be furnished to this office as to whether or not Jefferson County can set up its own retirement system and pension plan in view of Section 67.200."

Jefferson County has an assessed valuation of \$40,000,000 or more and a population in excess of 65,000 and adjoins a county of the first class with a charter form of government.

Section 70.600 to and including Section 70.760, RSMo Supp 1967, provides for the establishment of a retirement and pensioning system for officers and employees of political subdivisions. This system is known as the "Missouri Local Government Employees' Retirement System."

Honorable William T. Brooking, Jr.

Section 70.605, RSMo Supp. 1967, provides in part:

"1. For the purpose of providing for the retirement or pensioning of the officers and employees and the widows and children of deceased officers and employees of any political subdivision of the state, there is hereby created and established a retirement system which shall be a body corporate, which shall be under the management of a board of trustees herein described, and shall be known as the 'Missouri Local Government Employees' Retirement System'. Such system may sue and be sued, transact business, invest funds, and hold cash, securities, and other property. The system shall begin operations on the first day of the calendar month next following sixty days after the date the board of trustees has received certification from ten political subdivisions that they have elected to become employers."

Section 70.600, subdivision 19, RSMo Supp. 1967, provides:

"'Political subdivision', any governmental subdivision of this state created pursuant to the laws of this state, and having the power to tax, except public school districts;"

Jefferson County is a political subdivision within the terms of Section 70.600 (19) and may elect to provide for the system of retirement and pensioning of its officers and employees under the Missouri Local Government Employees' Retirement System by a majority vote of its governing body under provisions of Section 70.610, RSMo Supp. 1967, unless it is otherwise prohibited by law.

Section 67.200, RSMo Supp. 1967, provides:

"1. Any political corporation or subdivision of this state, now having or which may hereafter have an assessed valuation of forty million dollars or more, except counties of the second class having a population in excess of sixty-five thousand, which adjoins a county of the first class with a charter form of government, which does not now have a pension system for its officers and employees adopted pursuant to state law, may provide by proper legislative action of its governing body for the pensioning of its officers and employees and the widows and minor children

Honorable William T. Brooking, Jr.

of deceased officers and employees and to appropriate and utilize its revenues and other available funds for such purposes.

"2. In adopting a pension plan such counties, other political corporations or political subdivisions may provide for different benefits and requirements for elected officers and appointed officers and employees."

Since Jefferson County has a population which exceeds 65,000 and an assessed valuation in excess of \$40,000,000 and adjoins a county of the first class with a charter form of government, it is exempted from the provisions of Section 67.200.

The statutes providing for the establishment of the Missouri Local Government Employees' Retirement System are general statutes that apply to all political subdivisions of the state having the power to tax except public school districts. Section 67.200, supra, is a special statute that applies only to certain political corporations or subdivisions of the state that have an assessed valuation in excess of \$40,000,000 and do not have a pensioning system for their officers and employees adopted pursuant to state law. These statutes are not inconsistent or in conflict with the other because they apply to different subjects. In order that there be a conflict between two laws, both must contain either express or implied provisions which are inconsistent and irreconcilable with each other, and when either is silent, where the other speaks, there can be no conflict between them. *Manker vs. Faulhaber*, 94 Mo. 430; *City of St. Louis vs. Klausmeier*, 213 Mo. 119, 112 S.W. 516; *City of St. Louis vs. Union Dairy Co.*, 213 Mo. 148, 112 S.W. 525.

It is the opinion of this department that Jefferson County is exempted from the provisions of Section 67.200, supra. However, Jefferson County may provide for the retirement and pensioning of its officers and employees under the Missouri Local Government Employees' Retirement System.

Yours very truly,

JOHN C. DANFORTH
Attorney General