

OPINION REQUEST 395
answered by Letter.

October 31, 1962

FILED
395

Honorable Maurice Schechter
State Senator, 13th District
41 Country Fair Lane
Creve Coeur 41, Missouri

Dear Senator Schechter:

This refers to your letter of October 25, 1962, inquiring whether the City of Crestwood, Missouri, may establish a pension or retirement plan for police and firemen to be wholly funded through an insurance company.

Section 86.583, RSMo 1959, is applicable to Crestwood both because that city is located in a county of the first class (St. Louis County) and because it falls within the 3,000 to 100,000 population bracket according to the 1960 federal census. Section 86.583 reads as follows:

"Any municipality in any county of the first class, and any other municipality in this state which now contains or may hereafter contain not more than one hundred thousand inhabitants nor less than three thousand inhabitants as determined by the last preceding federal census is hereby authorized to provide for the pensioning of the salaried members of its organized police force or fire department and the widows and minor children of deceased members; provided, however, that nothing in this section shall be construed to affect any pension or retirement system for members of an organized police force or fire department, and their widows or minor children, which has been established previously under authority of an act of the general assembly and which is in operation at the time of the passage of this section, and the provisions of law applicable to any

such pension or retirement system shall not be deemed to be repealed or superseded by the provisions of this section. This section shall not take effect in any such city until approved by the voters thereof as herein provided. On order of the city council, or on petition of five per cent of the qualified voters of said city, the city clerk shall publish notice thereof and submit to the qualified electors of said city at the next general or municipal election the question: 'Shall the police or firemen's pension plan be approved?' If a majority of the voters casting votes thereon at the election is in favor of the question, this section shall take effect in said city thirty days after the election. Notice of every such election under this section shall be published at least once a week for at least three weeks in a newspaper of general circulation in said city, the last publication to be not more than three nor less than two weeks next preceding the election."

You will note that Section 86.583 authorizes a city such as Crestwood, upon a favorable popular vote, to provide for the pensioning of the salaried members of its organized police force or fire department and the widows and minor children of deceased members but that that section does not purport to regulate in any manner the pension plans which may be created pursuant thereto. In view of the unrestricted authority granted by Section 86.583, we know of no reason why provision for the pensioning of police and firemen pursuant to that section could not be accomplished by an arrangement with an insurance company.

While an insurance company was not involved, you may possibly be interested in the enclosed copy of our letter of May 17, 1962, to Representative H. F. Patterson concerning the Police and Firemen's Retirement fund created by the City of Columbia pursuant

Honorable Maurice Schechter

3

to Section 86.583.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

JCB lc

1 enclosure