

Opinion No. 284 (1968)
Answered by Letter (Klaffenbach)

November 13, 1968

FILED
284

Honorable Hal E. Hunter, Jr. ✓
Prosecuting Attorney
New Madrid County Courthouse
New Madrid, Missouri 63869

Dear Mr. Hunter:

This is in response to your opinion request regarding the definition of "employee" as used in Sections 70.600 through 70.760, RSMo Supp. 1967, relating to retirement or pensioning of officers and employees of political subdivisions.

It is our understanding that New Madrid County has elected to become an "employer" and to cover its employees under the system. The present question and possible controversy arises from difficulties in determining who are employees of the political subdivision and whether, in certain instances, fees may be considered as part of "compensation" under the "system."

Section 70.630, Paragraph 2, states that,

"In any case of question as to the system membership status of any person, the board shall decide the question."

In addition, Section 70.605, RSMo Supp. states in part as follows:

"16. The board of trustees shall, after reasonable notice to all interested parties, hear and decide questions arising from the administration of sections 70.600 to 70.760; except, that within thirty days after a

Honorable Hal E. Hunter, Jr.

decision or order, any member, retirant, beneficiary or political subdivision adversely affected by that determination or order may take an appeal under the provisions of chapter 536, RSMo.

"21. Subject to the limitations of sections 70.600 to 70.760, the board shall formulate and adopt rules and regulations for the government of its own proceedings and for the administration of the retirement system."

We are advised by the attorney for the board of trustees for the Missouri local government employees retirement system (known as LAGERS), that the trustees of the system have adopted rules governing hearings and proceedings. Reading Paragraph 2, of Section 70.630, in conjunction with Paragraphs 16 and 21 of Section 70.605, it is apparent that it is incumbent upon the board of trustees of the system to decide the questions posed in your opinion request.

In the premises, therefore, we feel that it would be inappropriate for this office to render a decision at this time and under these circumstances, regarding membership and related questions of the system.

Very truly yours,

NORMAN H. ANDERSON
Attorney General