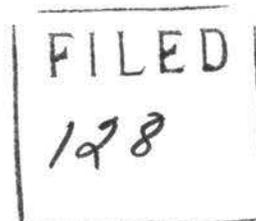


PENSIONS: A city is prohibited by Section 70.
RETIREMENT: 615, RSMo from establishing a pension
CITIES, TOWNS & VILLAGES: and retirement fund for employees who
are other than policemen or firemen
on an independent basis and not under the Lagers Retirement Plan
(Sections 70.600 to 70.760, RSMo 1969, as amended) other than
the Federal Social Security Old Age, Survivors and Disability
Insurance program, as amended, unless the city has an assessed
valuation of at least forty million dollars and does not now
have a pension system for its officers and employees adopted
pursuant to state law.

OPINION NO. 128

August 7, 1972

Honorable Don Owens
Missouri Senate
374 South Bernhardt
Gerald, Missouri 63037



Dear Senator Owens:

This is in response to your request for an opinion from the office of the Attorney General with respect to the following inquiry:

"May a city establish a pension and retirement fund on an independent basis and not under the Lagers Retirement Plan?"

The Lagers Retirement Plan, otherwise know as the Missouri Local Government Employees' Retirement System is codified in Sections 70.600 to 70.760, RSMo 1969, as amended. Within this statutory scheme certain political subdivisions are prohibited from adopting any other plan similar in purpose to the Missouri Local Government Employees' Retirement System by Section 70.615, RSMo 1969, which provides:

"After October 13, 1967, a political subdivision shall not commence coverage of its employees who are neither policemen nor firemen under another plan similar in purpose to this system, other than under this system, except the federal social security old age,

Honorable Don Owens

survivors, and disability insurance program, as amended; except that any political corporation or subdivision of this state, now having or which may hereafter have an assessed valuation of forty million dollars or more, 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 of deceased officers and employees under a plan separate and apart from that provided in sections 70.600 to 70.760 and appropriate and utilize its revenues and other available funds for such purposes." (Emphasis added)

As this language indicates a city, being a political subdivision, under the definition of "political subdivision" in Section 70.600(19), RSMo Supp. 1971, may not establish an independent retirement plan unless such city has an assessed valuation of forty million dollars or more, and does not now have a pension system for its officers and employees adopted pursuant to state law. (See also Section 67.200, RSMo, which generally authorizes political subdivisions having over forty million dollars assessed valuation to pension its officers and employees, and widows and minor children of deceased officers and employees). However, a political subdivision is not prohibited by Section 70.615 from adopting an independent plan if the coverage of the plan is limited to policemen or firemen. Also, the Federal Social Security Old Age, Survivors and Disability Insurance program is excepted from the prohibition of Section 70.615, RSMo 1969.

CONCLUSION

It is the opinion of this office that a city is prohibited by Section 70.615, RSMo from establishing a pension and retirement fund for employees who are other than policemen or firemen on an independent basis and not under the Lagers Retirement Plan (Sections 70.600 to 70.760, RSMo 1969, as amended) other than the Federal Social Security Old Age, Survivors and Disability Insurance program, as amended, unless the city has an assessed valuation of at least forty million dollars and does not now have a pension system for its officers and employees adopted pursuant to state law.

Honorable Don Owens

The foregoing opinion, which I hereby approve, was prepared by my assistant, Richard S. Paden.

Very truly yours,

A handwritten signature in cursive script that reads "John C. Danforth". The signature is written in dark ink and is positioned above the typed name.

JOHN C. DANFORTH
Attorney General