

February 14, 1974

OPINION LETTER NO. 8
Answer by letter-Jones

Honorable William J. Cason
State Senator, District 31
Room 422, Capitol Building
Jefferson City, Missouri 65101



Dear Senator Cason:

This letter is to acknowledge receipt of your request for an opinion from this office which reads as follows:

"Can a cost of living increment constitutionally be added to the pension benefits of persons retired under the public school retirement system?"

In State ex rel. Breshears v. Missouri State Employees' Retirement System, 362 S.W.2d 571 (Mo. Banc 1962), it was held that a 1961 amendment to a 1957 statute permitting payment of increased benefits to retired members of the Missouri State Employees' Retirement System would take a portion of the fund existing when the amendment was passed to pay the increase and would impair a contract with active members in violation of Section 13, Article I of the Missouri Constitution.

It is our view that the holding in the Breshears case is applicable to your question. Therefore, any increase which is based on cost of living would be invalid if granted by the legislature.

Yours very truly,

JOHN C. DANFORTH
Attorney General