

Attorney General of Missouri

JOHN ASHCROFT
ATTORNEY GENERAL

JEFFERSON CITY

(314) 751-3321

65101

May 18, 1979

OPINION LETTER NO. 23

The Honorable Charles J. Becker
Representative, District 123
Room 406, State Capitol Building
Jefferson City, Missouri 65101

Dear Mr. Becker:

This letter is in response to your opinion request which asks whether the City of Arnold, Missouri, which has an assessed valuation of less than forty million dollars can establish an Individual Retirement Account, as defined by the United States Internal Revenue Service, for all city employees other than policemen or firemen.

We understand that cities generally may establish Individual Retirement Accounts for their employees. In your opinion request you state that the mayor and council of the City of Arnold, Missouri, are looking into a pension plan for city employees. You state that to date they have been led to believe that "Lagers" is the only plan that can be implemented by the city. In this connection, we call your attention to Section 70.615, RSMo, 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, 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

The Honorable Charles J. Becker

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 and 70.670 and appropriate and utilize its revenues and other available funds for such purposes." (Emphasis added)

In our Opinion No. 128-1972, copy enclosed, we concluded that a city is prohibited by Section 70.615 from establishing a pension and retirement fund for employees, other than policemen or firemen, except under Lagers, 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.

Clearly Section 70.615 provides that such a city "shall not commence coverage of its employees who are neither policemen nor firemen under another plan similar in purpose to this system (Lagers)" and clearly the express exceptions are not relevant in the premises. Since the IRA is a plan similar in purpose to Lagers, in view of this prohibition, we conclude that the city cannot establish Individual Retirement Accounts for its employees.

Very truly yours,



JOHN ASHCROFT
Attorney General

Enclosure
Opinion No. 128-1972