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January 7, 1985

OPINION NO. 85-9

The Honorable Allen Gordon
State Senator
105 South Moose
Morrilton, Arkansas 72110

Dear Senator Gordon:

This is in response to your letter wherein you requested an opinion concerning the following questions involving the Oppelo Volunteer Fire Department Pension Board:

1. Can the widow of a volunteer firefighter receive a pension payment if the volunteer was retired on disability with eleven years service at the time of retirement?
2. If she can receive payments, what is the amount of the payment?
3. Is it required for a firefighter to contribute to the pension plan?
4. If required, what is the amount?
5. How can the contribution be enforced?
6. Is a city required to match the contribution made by the firefighter to the pension program?
7. What is the amount a pension program is required to pay?
8. If a person is retired from the fire department and is receiving a pension payment but has never contributed to the program personally, though the city has contributed \$12 per year, is the person entitled to a pension?
9. If not entitled, what can be done?
10. Also, does it matter if the person retired on disability after 20 years?

11. Can a city fire department respond to an emergency call in the fire protection district of another fire department without being called by the protection district?

The answer to your questions in the same order in which the questions were presented are:

1. Ark. Stat. Ann. §19-2208 provides that the widow of a member of a fire department "who shall have lost his life except while actually performing work in gainful employment outside the fire department" is entitled to a pension.

2. The amount of the pension is determined by the rank of the member of the fire department at the time of his death. In no event is the amount to be less than \$30 per month.

3. A full paid fireman whose salary is in excess of \$50 per month and each part-time paid or active volunteer fireman must contribute if he or she wishes to participate in the benefits of the Pension Fund.

4. The amount to be contributed by an active volunteer fireman is \$12.00 per year. A full paid fireman is required to contribute 6% of his or her salary.

5. The deductions are authorized in writing and may be withheld from the fireman's paycheck.

6. A city in which a Fireman's Pension and Relief Fund is established is required to provide contributions at a rate prescribed by Ark. Stat. Ann. §19-2221.1 (Cum.Supp 1983) a copy of which is enclosed.

7. Payments required of pension funds depend upon the circumstances surrounding the retirement. Please consult the enclosed copy of Ark. Stat. Ann. §19-2204 (Cum.Supp. 1983).

8. A person who had not authorized deductions would not appear to be entitled to benefits.

9. There would not be any basis for authorizing payment of pension benefits.

10. No.

11. Ark. Stat. Ann. §19-2106 provides that a city council or other city governing board may enact an ordinance dealing with service beyond corporate limits.

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The foregoing opinion, which I hereby approve, was prepared by
Special Assistant Attorney General George Harper.

Sincerely,



STEVE CLARK
Attorney General

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