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OPINION LETTER NO. 85

The Honorable John E. Scott  
State Senator  
419A Capitol Building  
Jefferson City, Missouri

Dear Senator Scott:

This letter is written in response to your request for an opinion concerning the meaning of § 87.207, RSMo 1978, dealing with cost of living increases under the firemen's retirement and relief system. Specifically, you asked the following question:

Does the intent of the law and meaning of the words and language in this statute mean that the three percent cost of living benefit be compounded yearly, or is this benefit tied to the basic pension allowance only?

In pertinent part, § 87.207, RSMo 1978, provides as follows:

The retirement allowance due under the provisions of sections 87.120 to 87.370 of any member who retired from service with a retirement service allowance, ordinary disability allowance or accidental disability allowance shall be increased annually at a rate not to exceed three percent as approved by the board of trustees beginning with the first increase in the second October following his retirement and subsequent increases in each October thereafter; . . .

The Honorable John E. Scott

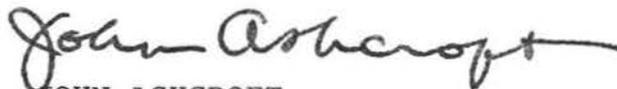
Subsequent provisions of the statute provide for decreases or adjustment in accordance with the consumer price index as published by the United States Department of Labor. The term "retirement allowance" as used above is defined in § 87.120(15), RSMo 1978, as "annual payments for life which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon retirement or to a beneficiary."

When the definition of the term "retirement allowance" is considered in conjunction with § 87.207, RSMo 1978, it is apparent that the amount of money in question must be related to a specific date, that is, the date of each individual member's retirement. It is the base pension allowance due upon retirement which is subject to increase or decrease in accordance with the terms of the statute. The limitations contained in § 87.207 can be observed by applying the three percent cost of living benefit to the base pension only rather than the base pension plus annual cost of living raises already granted. Another sentence of § 87.207 provides:

If the increase is in excess of the approved rate for any year, the excess shall be accumulated as to any retired member and increases may be granted in subsequent years subject to a maximum of three percent for each full year from October following his retirement but not to exceed a total increase of twenty-five percent.

These limitations could not be applied without reference to the basic pension allowance computed for each member upon retirement. Therefore, it is our opinion that the annual cost of living increase as approved by the board of trustees pursuant to Chapter 87 must be computed against each member's basic pension allowance only. Prior increases cannot be compounded with the basic pension so as to enlarge the retirement allowance from which the annual cost of living increase is computed.

Very truly yours,



JOHN ASHCROFT  
Attorney General