

OFFICE OF THE ATTORNEY GENERAL



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STATE OF ALABAMA

RECEIVED JUN - 2 1983

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MAY 30 1983

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Honorable J. Robert Miller
Attorney at Law
122 South Side Square
Huntsville, AL 35801

Employees, Employers, Employment --
Retirement --Funds

City of Huntsville, doing
business as Huntsville Utilities,
may appropriate funds for cost
of living raises for retired
employees as an incident of
employment.

Dear Mr. Miller:

The opinion request of the City of Huntsville Natural Gas Utility Board and the City of Huntsville Water Utility Board has been received in the Office of the Attorney General. Your request states that these Boards, in addition to the Electric Utility Board, make up and comprise Huntsville Utilities which is wholly owned by the City of Huntsville. You wish to know whether public funds may legally be appropriated for "cost of living" raises for retired employees of the Boards.

In an Opinion to Honorable Charles Younger, City Attorney, City of Huntsville, under date of October 19, 1982, this office approved the granting of such cost of living raises. It is apparent that employees of the wholly municipally owned Huntsville Utilities should be treated on an equal basis with other municipal employees. It is noted in your request that you state that "there appears to be no contract or agreement on behalf of Huntsville Utilities

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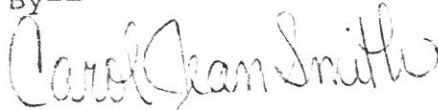
to provide the retirement benefits by future contributions." Nonetheless, it is the opinion of this office that the expectation of cost of living increases in retirement benefits is a reasonable expectation which can be implied as an "incident of employment" as used in the Younger opinion. It is the further opinion of this office that the City of Huntsville, doing business as Huntsville Utilities, may appropriate public funds to pay for cost of living raises for retired employees as an incident of employment without violating Constitution of Alabama 1901, §§ 68 and 94, as amended.

I do hope that this response fully answers your inquiry. If, however, we may be of further assistance to you, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By--

A handwritten signature in cursive script that reads "Carol Jean Smith".

CAROL JEAN SMITH
Assistant Attorney General

CJS:es