



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

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ATTORNEY GENERAL**

August 14, 1967

Hon. Marie Winters
Fireman's Pension Commissioner
Sam Houston Building
Austin, Texas 78701

Opinion No. M-124

Re: Can a city contribute into the Pension Fund under 10A-2(e) Article 6243e, Vernon's Civil Statutes as amended by H.B. 465, 60th Legislature⁷ an amount to make up the percentage set by a vote of the Firemen as salary deductions as set out in Section 10A-2(a)?

Dear Mrs. Winters:

You have requested the opinion of this office regarding the above question. In this connection you have provided us with the following facts:

" . . . The Firemen have voted to put six percent of their salary into the Pension Fund. This amount, of course, is matched by the City. In addition to the six percent the City is required to pay, the City has been paying a portion of the Firemen's six percent. No Fireman pays more than \$20.00 per month into the Firemen's Pension Fund. The City pays the difference between \$20.00 per month and six percent of each Fireman's salary "

Section 10A, Article 6243e, Vernon's Civil Statutes, is quoted in part as follows:

"Sec. 10A. (a) In all cities having fully paid firemen where Firemen's Relief and Retirement Funds now exist or shall be created under the provisions of this Act and having a population of less than one hundred and eighty-five thousand (185,000) inhabitants according to the preceding Federal Census, the city or the governing body of the city shall deduct an amount equal to no less than three per cent (3%) nor more than six per cent (6%) from the monthly salary or com-

compensation of each participating member fireman.

"(b) The amount of the monthly deductions which shall be contributed to the Firemen's Relief and Retirement Fund shall be determined by majority vote of the Fund members.

"(c) Any city coming within the provisions set out in this Article shall also contribute and appropriate monthly to the Fund an amount equal to the total sum paid into the Fund by salary deductions of the members.

". . . ."

The 60th Legislature enacted House Bill No. 465, amending certain portions of Article 6243e. A new section was also added, to be known as Section 10A-2, effective August 28, 1967. The pertinent portions of Section 10A-2 are quoted as follows:

"Section 10A-2. (a) In all cities having fully paid firemen where Firemen's Relief and Retirement Funds now exist or shall be created under the provisions of this Act and having a population of less than one hundred sixty-five thousand (165,000) according to the last preceding Federal census, the city or the governing body of the city shall deduct an amount equal to no less than three percent (3%) nor more than nine percent (9%) from the monthly salary or compensation of each participating member fireman; provided, however, that the total of the percentage contributed by such city to the Fund, plus the percentage, if any, contributed by such city under the Federal Social Security Act, shall not exceed:

"(1) nine percent (9%) of the monthly salary, or,

"(2) the total percentage contributed to the retirement of other full-time employees of such city under the Texas Municipal Retirement System, or any other retirement system, whichever is greater.

"(b) The amount of the monthly deductions which shall be contributed to the Firemen's Relief and Retirement Fund shall be determined by

majority vote of the Fund members.

"(c) Any city coming within the provisions set out in this Article shall also contribute and appropriate monthly to the Fund an amount equal to the total sum paid into the Fund by salary deductions of the members subject to the limitations set out in Section 10A (a). Under no circumstances shall the city contribute an amount greater than the total sum paid into the Fund by salary deductions of members unless authorized under Section 10A(e).

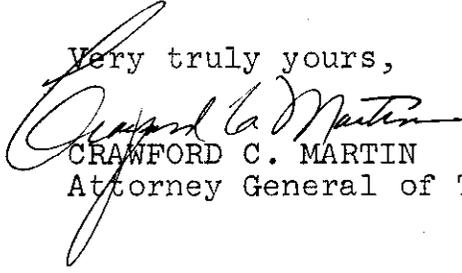
". . . ." (Emphasis supplied)

You are accordingly advised that it is the opinion of this office that Subsections (b) and (c) of Sections 10A and 10A-2 clearly prohibit a city which falls within the population brackets dealt with by these statutory provisions from paying any portion of the monthly amount which the firemen of the city vote to contribute to the Fireman's Relief and Retirement Fund. Therefore Section 10A(e) and Section 10A-2(e) have no application to the portion of the firemen's contribution to the fund.

S U M M A R Y

Subsections (b) and (c), Section 10A, Article 6243e, V. C. S., and Subsections (b) and (c), Section 10A-2, Article 6243e, V. C. S. (effective August 28, 1967), prohibit a city which falls within the population brackets dealt with by these statutory provisions from paying any portion of the monthly amount which the firemen of the city vote to contribute to the Fireman's Relief and Retirement Fund.

Very truly yours,


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APPROVED:
OPINION COMMITTEE

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