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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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ALABAMA STATE HOUSE
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Honorable Randy Hinshaw
Member, House of Representatives
Post Office Box 182
Meridianville, Alabama 35759

Counties - Employees, Employers,
Employment - Retirement -
Compensation - Municipalities -
Madison County

A city or county cannot grant a cost-of-living raise to its retired employees in the Retirement Systems of Alabama without legislative authorization.

Dear Representative Hinshaw:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Can the City of Huntsville and the Madison County Commission grant a cost-of-living raise to its retirees without legislative action?

FACTS AND ANALYSIS

Section 36-27-6 of the Code of Alabama authorizes the governing board of any county, city, town, or public or quasi-public organization of the state, or of any political subdivision of the state, to elect to have its

officers and employees participate in the Retirement Systems of Alabama. ALA. CODE § 36-27-6 (2001). The City of Huntsville and the Madison County Commission have exercised this option and their employees are members of the Retirement Systems of Alabama.

The Legislature has periodically granted a cost-of-living raise to the retired members of the Retirement Systems of Alabama with a provision that the raise was optional for the local governmental units. If a city or county elects to come under the provisions of the act granting the raise, they must bear the cost of the supplemental benefits. ALA. CODE §§ 36-27-21.1 to 36-27-21.7 (2001). Your question assumes a situation where the Legislature has not acted and the city or county desires to grant a cost-of-living raise to its retired employees.

The amount of service retirement allowance paid to members of the Retirement Systems of Alabama is established by the Legislature. ALA. CODE § 36-27-16 (2001). The Legislature has not granted local governmental units that participate in the Retirement Systems of Alabama any legal authority to unilaterally raise service retirement allowances. Cities and counties, as political subdivisions of the State, may exercise only the authority conferred upon them by law. *Jefferson County v. Johnson*, 333 So. 2d 143, 145 (Ala. 1976); *Trailway Oil Co. v. City of Mobile*, 271 Ala. 218, 221, 122 So. 2d 757, 760 (Ala. 1960).

As previously noted, all of the cost-of-living raises in the service retirement allowances have been granted through acts of the Legislature. Because the amount of the service retirement allowances is established by the Legislature, and the Legislature has not granted cities and counties that participate in the Retirement Systems the authority to grant increases in these allowances, it is the opinion of this Office that a city, county, or governmental agency does not have legal authority to supplement this amount without legislative authority.

CONCLUSION

A city or county, or any other governmental agency, does not have legal authority to grant a cost-of-living raise to its retired employees in the Retirement Systems of Alabama without legislative authority.

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I hope this opinion answers your question. If this Office can be of further assistance, please contact Don E. Lawley of my staff.

Sincerely,

TROY KING
Attorney General
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

TK/DEL

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