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STATE OF KANSAS

*Office of the Attorney General*

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER  
Attorney General

January 28, 1974

Opinion No. 74- 31

L. O. Bengtson  
Salina City Attorney  
P.O. Box 903  
Salina, Kansas 67401

Dear Mr. Bengtson:

K.S.A. 13-14a08 provides in pertinent part thus:

"Provided, That if any officer or member who shall have been allowed any benefits under this section shall thereafter be employed for compensation, the monthly payments out of the pension fund shall be reduced, until he reaches the age of sixty years, to such an amount, if when added to the other compensation he receives, shall not exceed the compensation he was receiving at the time he was retired or discharged . . . ."

You inquire whether the reduction in pension payments required by this section applies when a retirant receives earned income from self-employment.

In our opinion, the reduction requirement applies to a retirant who receives earned income from self-employment. The statute speaks of one who is "employed for compensation." It does not distinguish between kinds of employment, whether self-employment or employment by another. If one to whom the section applies is employed for compensation, regardless of the kind of employment, monthly payments from the pension fund which he received shall be reduced, until he reaches the age of sixty years, to an amount which, when added to the compensation he receives from his employment, shall not exceed the compensation he was receiving when he was retired or discharged.

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The question you raise was discussed in a 1947 opinion issued by Attorney General Edward F. Arn, who responded to an inquiry whether this provision was

"limited to cases of actual employment or does it also include compensation received by the pensioner from business activities in which he is engaged as proprietor or self-employer."

He pointed out that the section did not apply to income received from investments, annuity insurance policies, or business interests in which the retirant was not an active director. However, the section does cover all income earned from employment of whatever kind.

You inquire, secondly, whether the phrase "any officer or member who shall have been allowed benefits under this section" include the widow or child of a deceased officer or member who would be entitled to those benefits under K.S.A. 13-14a07.

In our view, the quoted phrase does not include the widow or child of a deceased officer, or of a member. Thus, income earned from employment by a widow or child of a deceased officer or member does not constitute the basis for any pension payment reductions authorized by K.S.A. 13-14a08.

Yours very truly,

  
VERN MILLER  
Attorney General

VM:JRM:jsm

cc: Marshall Crowther