

This opinion
appears to
be incorrect.
see 163 Kan. @
208.



STATE OF KANSAS

Attorney General

(913) 296-2215 Topeka, Kansas 66612

Curt T.
Attorney General

February 14, 1977

ATTORNEY GENERAL OPINION NO. 77- 55

Mr. Stan Morgan
City Attorney
107 West Commercial Street
Oberlin, Kansas 67749

Re: Cities--Employees--Compensation

Synopsis: A city may, in the exercise of its legislative powers under Article 12, § 5 of the Kansas Constitution, authorize the payment of bonuses to its employees.

* * *

Dear Mr. Morgan:

On behalf of the City of Oberlin, Kansas, a city of the third class, you inquire whether the city may authorize cash payments to its employees as year-end bonuses, any amount to be so paid to be over and above any amounts such employees would receive under the city salary schedule.

At 4 McQuillin, Municipal Corporations, § 12.197, at p. 95, the writer states thus:

"An increase or reduction in compensation should be made, of course, by the authority possessing the power. The applicable law must be substantially observed in granting bonuses, and in changing salaries, and, of course, applicable provisions of the constitution should be complied with." [Footnotes omitted.]

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There are no applicable Kansas statutes dealing specifically with the payment of bonuses to municipal employees. It does not appear, however, that the exercise of legislative power to authorize such payments has been questioned. In two cases, Borough of Verona v. Civil Service Commission, 135 N.J.L. 539, 53 A.2d 360 (1947) and Goodman v. City of New York, 108 N.Y.S.2d 2 (1951), the right of particular municipal employees to bonus payments was in issue, but in neither case was the basic authority of the city to pay bonuses drawn in question. In the latter case, moneys for so-called bonus payments were budgeted for "adjustment of the compensation of low-paid employees to meet increased living costs," and was known as a "cost of living bonus." The court treated the authorized bonus payments as merely additional compensation. In the former case, the action of a city governing body authorizing bonus payments to its employees was questioned as not having been taken in compliance with authorizing state statutes. However, once again, the validity of the legislative power to authorize such payments was not questioned.

It is necessary, of course, that public funds be devoted to public purposes. The payment of a bonus by the city to its employees is analogous, if not directly tantamount, to increased compensation, and I cannot conclude as a matter of law that so-called bonus payments do not serve a public purpose. The payment of any bonus must, of course, be authorized by legislative action of the city governing body.

You also inquire whether the system board of the Northwest Kansas Library System may authorize such payments to its employees as bonuses. Unlike a city governing body, which exercises municipal legislative powers under Article 12, § 5 of the Kansas Constitution, the system board has no such general legislative powers. It is authorized to "employ a system librarian and such other persons as the regional board may find convenient or necessary." K.S.A. 75-2550. Incidental to that power, of course, the board must fix the compensation of its employees, and may authorize increments thereto. However, it has no powers from which may reasonably be implied the authority to make payments to its employees in the form of year-end bonuses.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj