

Opinion No. 163.

**Cities and Towns—Fire Department  
Relief Associations—Volunteer  
Firemen—Eligibility of Volun-  
teer Firemen to Hold  
Office.**

HELD: Under the provisions of Section 3, Chapter 136, Laws of 1939, volunteer firemen are eligible only as trustees and not as officers of fire department relief associations.

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November 9, 1939.

Hon. W. A. Brown  
State Examiner  
The Capitol

Dear Mr. Brown:

You have submitted the question "whether a volunteer fireman of the relief association formed under Section 5129 may act not only as trustee but in the capacity of any other officer of the incorporated relief association if elected."

Section 3, Chapter 136, Laws of 1939, among other things, provides:

"\* \* \* a volunteer being described as one who is an enrolled member of the volunteer fire department and assists the paid fire department; who is eligible to serve only on the board of trustees of the fire department relief association of such city, provided not more than three volunteer members are on said board of trustees, but who shall not be entitled to receive a 'service pension.'"

This section states that a volunteer is eligible to serve only on the board of trustees of the fire department relief association. This is a specific and definite limitation and clearly the legislature must have thereby intended to make such volunteer member ineligible as an officer of such association. We see no conflict with Sections 5129, 5130 or 5133, R. C. M., 1935, as amended by Chapter 73, Laws of 1939, as neither of these sections covers the subject of eligibility of volunteer firemen to hold office. If these sections covered the subject and were in conflict with Chapter 136, they would to that extent be repealed by said last named chapter.

Since your question is a general one and no facts are stated, we do not pass on the right of any particular volunteer fireman to hold office.