

Fire Department Relief Association.

State Auditor should issue warrant to City Treasurer Under Section 3, Chapter 129, Session Laws of 1911 as amended, and not to Treasurer of Fire Department Relief Association. City Treasurer not held liable for report under Section 6 when no relief association has been organized.

October 10th, 1917.

Mr. R. G. Poland,
State Auditor,
Capitol.

Dear Sir:

I have your letter of recent date submitting to me the following questions for my opinion:

"Referring to Section 3, Chapter 129, Session Laws of 1911, as amended by Laws of 1915, will you kindly advise this department whether the money referred to should be paid to the City Treasurer of incorporated cities when no Fire Department Relief Association has been organized, under Section 5, Chapter 129, or if the money can only be paid to City Treasurers when a Fire Department Relief Association has been organized, and by them turned over to the Treasurer of the Fire Department Relief Association. This of course, assumes that an organized fire department exists in such city or town.

"Further, in as much as this chapter gives the Board of Trustees authority to pay money out of such a fund when no Fire Department Relief Association has been formed, should the City Treasurer not be held liable for report of funds required of the Secretary and Treasurer of the Fire Department Relief Association if such exists, and money withheld from the City Treasurer under Section 6, until such report is filed.

"Is not the report of the City Clerk relative to the organization of a fire department sufficient to assume that the Fire Department is properly organized?"

Sections 3325 to 3331 of the Revised Codes of 1907 provides for the organization of a Fire Department in a city or town, and the qualifications and duties of the Firemen. Section 3334 provides for the creation of a "Disability Fund" of the Fire Department of a city or town, and Section 3335 provides the source of such fund, the levy of an annual tax for that purpose, and donations. By Section 3337 certain officials are designated as the trustees of such "Disability Fund" and their duties are prescribed in the following section.

Section 3 of Chapter 129 of the 1911 Session Laws as amended by Chapter 49 of the 1915 Session Laws, provides that the State Auditor shall issue and deliver to the *Treasurer of every city* his warrant for a certain proportion of the license fees collected by him, and by Section 5 the members of the Fire Department are authorized to form themselves into a Fire Department Relief Association. But, this last section does not relieve the State Auditor of his duty to issue and de-

liver the above mentioned warrants to all city treasurers, whether a Fire Department Relief Association has been organized in such city or not, and such warrant should be issued to the City Treasurer even if such city has a duly organized Fire Department Relief Association, for by Section 7 the Treasurer of the Relief Association receives the funds from the City Treasurer.

There is nothing in the law requiring the Trustees of the disability fund to make any reports to the State Auditor. By Section 3333 their report is made to the city or town council. Section 6 of Chapter 129 only applies to cities having a regularly organized Fire Department Relief Association.

By Section 5 the Fire Department Relief Association is organized only with the consent of a majority of the members of the city council and therefore the city clerk has a record of such organization, and his certificate to the organization of such a Relief Association is sufficient for all reports made to your office.

Respectfully,

S. C. FORD,

Attorney General