

Fire Department Relief Associations—Funds—Treasurer—Bonds.

All cash and securities of a fire department relief association must be left in the hands of the treasurer and he must be bonded for double the value of the same.

May 18, 1928.

George P. Porter, Esq.,
State Auditor and Commissioner of Insurance,
Helena, Montana.

My dear Mr. Porter:

You have requested my opinion on the following questions:

1. Must all of the cash investments and securities of a fire department relief association be left in the hands of the treasurer, and, if so, must he be bonded for double the value of all cash and securities?
2. If it is permissible to have the investments of the fire department relief association placed in the name and custody of the board of trustees, can the treasurer's bond be reduced in the amount of the securities that are thus turned over to the board of trustees?
3. If it is permissible to have the board of trustees handle the investments or securities, must they procure a bond?

In answer to your first question, section 5130 R. C. M. 1921, as amended by chapter 58, laws of 1927, provides as follows:

"The secretary and treasurer of every fire department relief association so formed shall annually prepare a detailed report of its receipts and expenditures for the preceding year, showing to whom and for what purpose the money has been paid and expended, and file it with the association, and a duplicate with the state auditor. No money shall be paid to the treasurer of such fire department relief association until such report is so filed. No one serving as a substitute or on probation, nor any fireman in the city having such association who is not a member thereof shall be deemed a member of the association within the meaning of this act. No treasurer of any such association shall enter upon his duties until he has given to the association a good and sufficient bond of not less than double the amount of all funds and securities in the hands of said treasurer for the faithful discharge of his duties according to law. The amount of such bond to be approved and paid for by such association. All of the financial books and accounts of such association with reference thereto shall be subject at all times to examination by the state examiner. And the state examiner is hereby authorized, empowered and required to make such an examination at least once in each year, or upon complaint being duly made to him that the money or any part thereof paid under the provisions of this act to the treasurer of such association has been or is being

expended for any unauthorized purpose, and if such money upon examination is found to have been expended contrary to the authority given he shall so report to the governor, upon whose direction to the state auditor no further warrants shall be issued to such fire department relief association treasurer until the money so expended has been returned."

This is the only section whereby any provision is made for the custody of funds belonging to the association or where there was any provision made for the examination by the state examiner of the financial books and accounts of such association. Further, section 5121 R. C. M. 1921, to which you refer, makes it the duty of the board of trustees of the association to audit the accounts of the association from time to time, etc. It is therefore evident that it was not the intent of the legislature that funds should be kept in the hands of the board of trustees for, if this was the case, they would be auditing their own accounts. The provision of this section authorizing the board of trustees to invest funds of the association under certain conditions cannot in any way be construed to mean that the board of trustees should have the custody of either the funds of the association or any securities in which the funds might be invested.

It is therefore my opinion that all of the cash and securities of the fire department relief association must be left in the hands of the treasurer and that he must be bonded for double the value of the cash and securities, as provided by section 5130, supra.

In view of this conclusion, it becomes unnecessary to answer your last two questions.

Very truly yours,

L. A. FOOT,
Attorney General.