

No. 226

**FIRE DEPARTMENT RELIEF ASSOCIATIONS—DIS-
ABILITY AND PENSION FUND—TREASURER—
DEPOSITORIES**

Held: When funds of Fire Department Relief Associations are under control of member treasurer, and not city or town treasurer, no security for deposit of funds is required.

August 30, 1941.

Mr. W. A. Brown
State Examiner
State Capitol
Helena, Montana

You have requested my opinion on the following question:

“Will you kindly advise us whether or not in your opinion the funds of a fire department relief association, when in the possession of a treasurer selected by the association from one of its own members, who is not the duly elected city or town treasurer, are public

funds, and if such treasurer is under the law obliged to require depositories to secure funds of the association in the same manner as they are required to secure funds of cities and towns similarly deposited?"

The disability and pension funds of the Fire Department Relief Associations exist for the purpose of protecting active members injured in service or otherwise within the benefits conferred by the Association (State v. Fisher, 108 Mont. 68, 88 Pac. (2nd) 53) and consist of bequests, gifts, donations, monthly fees paid by members, municipal taxes and moneys received from the State. (Section 5118 of the Revised Codes of Montana, 1935, as amended by Chapter 43, Laws of 1939.)

The fund must be kept separate and held by the Treasurer. (Section 5117 of the Revised Codes of Montana, 1935.) By a majority vote of the members of the Association, the city or town clerk shall be ex-officio treasurer of the Association and the cash in the Firemen's Relief Fund shall have the same protection as depository securities furnished by banks and other funds of the city or town. (Section 5130, Revised Codes of Montana, 1935.)

Section 182 of the Revised Codes of Montana, 1935, requiring security for deposits of public moneys by the State Treasurer, and Section 4767, making such requirements in the case of city, county and town treasurers, by their very language, refer only to the classes of treasurers therein named and not to a treasurer of a Fire Department Relief Association. No statutory procedure is set up as to the manner or type of security the Association should demand nor is it given the power to demand security for deposits. It is only when the Association sees fit to use the services of the city or town treasurer that the protection to the funds on deposit, afforded by Section 4767, is given.

No security for deposit is required when the fund is held under the control of a treasurer selected by the Association from its own members.

Sincerely yours,

JOHN W. BONNER
Attorney General