

Opinion No. 115.

**Volunteer Firemen's Compensation
Act—Qualification—Statutory
Construction—Legisla-
tive Intent.**

HELD: The Volunteer Firemen's Compensation Act applies to volunteer fire fighters in fire departments organized in rural areas outside unincorporated towns or villages.

December 31, 1954.

Mr. Robert F. Swanberg, Chairman
Industrial Accident Board
Sam W. Mitchell Building
Helena, Montana

Dear Mr. Swanberg:

You have requested my opinion upon the following question:

"Does the Volunteer Firemen's Compensation Act, Section 11-2020, R. C. M., 1947, apply to volunteer fire fighters in fire departments organized in rural areas outside unincorporated towns or villages?"

Section 11-2023, R. C. M., 1947, reads as follows:

"In order to qualify for the compensation herein provided, the fireman must be an enrolled active member of a fire company organized under the laws of the State of Montana in an unincorporated town or village, at the time of such injury or sickness for which compensation hereunder is claimed."

The above-quoted section was enacted as Section 4, Chapter 65, Laws of 1935, and would normally exclude all

volunteer fire fighters in fire departments organized in rural areas outside unincorporated towns or villages; however, Section 11-2010, R. C. M., 1947, as amended by Section 2, Chapter 75, Laws of 1953, reads in part as follows:

“(a) Whenever the board of county commissioners shall have established a fire district in any **unincorporated territory, town or village**, said commissioners shall appoint five qualified trustees to govern and manage the affairs of the fire district, who shall hold office until their successors are elected and qualified . . .

“(b) Power of Trustee. The trustees shall organize by choosing a chairman, and appointing one member to act as secretary. They shall prepare and adopt suitable by-laws; **appoint and form fire companies that shall have the same duties, exemptions, and privileges as other fire companies. . .**” (Emphasis supplied.)

This subsequent enactment, Section 11-2010, R. C. M., 1947, as amended by Section 2, Chapter 75, Laws of 1953, pertains to the same general subject matter and is a part of the Volunteer Firemen's Compensation Act (Section 11-2020, R. C. M., 1947). Thus, the pertinent problem is whether this subsequent enactment extends the benefits of the Volunteer Firemen's Compensation Act to volunteer fire fighters organized in rural areas outside unincorporated towns or villages.

You will note that Section 11-2010, R. C. M., 1947, as amended by Section 2, Chapter 75, Laws of 1953, states that when a fire district is established in any unincorporated territory, the trustees thereof shall “. . . **appoint and form fire companies that shall have the same duties, exemptions, and privileges as other fire companies. . .**”

Further, Section 4, Chapter 75, Laws of 1953, provided that all Acts and parts of Acts in conflict therewith were thereby repealed. Thus, since Section 11-2023, R. C. M., 1947, conflicts with Section 11-2010 in that the coverage of firemen is limited to an “unincor-

porated town, or village,” the conflicting part is repealed and coverage would be extended to any “unincorporated territory, town, or village.”

Thus, the legislative body has expressed an intent to bring within the Volunteer Firemen's Compensation Act those volunteer firemen organized in any unincorporated territory which would include rural areas.

The rule applicable wherein the legislative intent is to be construed in such a situation as herein exists is stated in *State v. Board of County Commissioners of Cascade County*, 89 Mont. 37, 296 Pac. 1, which reads in part as follows:

“It is also the duty of a court to ascertain the intention of the legislature and to so construe the statute as to give it the effect of that intention. (Citing cases.) But **this intention of the legislature may not be ascertained from the wording of any particular section of a statute, but only from a consideration of the Act as a whole**; the division of a statute into sections being merely a matter of convenience for the purpose of reference. (Citing cases.)” (Emphasis supplied.)

Thus, an analysis of the complete Volunteer Firemen's Compensation Act presupposes that the legislature intended that volunteer fire fighters organized in rural areas should be covered by the Act when they directed, in Section 11-2010, R. C. M., 1947, as amended by Section 2, Chapter 75, Laws of 1953, that in unincorporated territories the “. . . fire companies . . . shall have the same duties, exemptions, and privileges as other companies . . .”; and when they directed that all Acts or parts of Acts in conflict with Section 11-2010, supra, were repealed.

It is, therefore, my opinion that the Volunteer Firemen's Compensation Act applies to volunteer fire fighters in fire departments organized in rural areas outside unincorporated towns or villages.