

Opinion No. 86**Firemen — Incorporated Cities —
Statutes — Poll Taxes —
Exemption**

HELD: Every fireman who has served five (5) years as an active member in a paid fire department in an incorporated city or town is entitled to exemption from payment of poll taxes.

November 3, 1956

Mr. John C. Harrison
County Attorney
Lewis and Clark County
Helena, Montana

Dear Mr. Harrison:

You have inquired in your letter of request for an official opinion "whether or not active members of paid fire departments in an incorporated city or town are entitled to exemption from payment of poll taxes".

It was your conclusion that the exemption from payment of poll taxes applies (1) to officers and members of unpaid fire companies, and (2) to all firemen who have

served as such for five years in an organized company. To this conclusion I concur.

Section 11-2003, R.C.M., 1947, provides the manner in which "fire companies in incorporated cities and towns", and in "unincorporated towns and villages" may be organized.

Section 11-2004, R.C.M., 1947, provides:

"Elect Officers. Make By-Laws, Exempt Firemen. Every such fire company must choose or elect a foreman, who is the presiding officer, and a secretary and treasurer, and may establish and adopt by-laws and regulations, and impose penalties, not exceeding five dollars, or expulsion for each offense. The officers and members of unpaid fire companies regularly organized and exempt firemen are entitled to the following privileges and exemptions, viz: Exemption from payment of poll-tax, road-tax, and head-tax of every description; exemption from jury duty; exemption from military duty, except in case of war, invasion, or insurrection. Every fireman who has served five years in an organized company in this state is an 'exempt fireman,' and must receive from the chief engineer of the department to which he belonged a certificate to that effect. Every active fireman must have a certificate of that fact, signed by the chief of the fire department or the foreman of the company to which he belongs; such certificates must be countersigned by the secretary, and over the seal of the company, if one is provided. Each certificate entitles the holder to exemption from military and jury duty."

In 15 Reports and Official Opinions of the Attorney General 131, No. 182, Attorney General Nagle placed the following construction on the above quoted section of our code:

" . . . there are three distinct classes mentioned in the section which are entitled to the exemptions. (1) officers of unpaid fire companies, (2) members of same, (3) exempt firemen."

As you will note from Section 11-2004, R.C.M., 1947, supra, exempt firemen have been defined in the following manner:

" . . . Every fireman who has served five years in an organized company in this state is an 'exempt fireman' . . ." (Emphasis supplied.)

Thus by the very definition of the statute and the designation of those groups of firemen that are entitled to the exemptions it is apparent that active members of paid fire departments in an incorporated city or town are entitled to exemption from payment of poll taxes.

It is therefore my opinion that every fireman who has served five (5) years as an active member in a paid fire department in an incorporated city or town is entitled to exemption from payment of poll taxes.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.