

VOLUME 32

Opinion No. 3

FIRE DEPARTMENT RELIEF ASSOCIATION; Insuring members off duty—Section 11-1928, R.C.M. 1947.

HELD: Effective July 1, 1967, a Fire Department Relief Association may purchase a blanket insurance policy that will compensate for death or injuries of members though not incurred in the line of duty.

June 8, 1967

Mr. William A. Penttila
 State Fire Marshal
 Capitol Building
 Helena, Montana

Dear Mr. Penttila:

You have requested my opinion on the following question:

Will section 11-1928, Revised Codes of Montana, 1947, as amended by Chapter 208, Laws of 1967, allow Fire Department Relief Associations to pay for premiums upon a blanket policy of insurance that will provide for compensation in case of death or injury to any members not incurred in the line of duty as a fireman?

Section 11-1928, Revised Codes of Montana, 1947, designates the purposes for which the disability and pension fund of a fire department relief association can be used. This section now reads in part as follows:

Said fund shall not be used for any other purpose whatsoever, other than payment of the following:

* * *

7. The payment of premiums upon a blanket policy of insurance covering the members of such fire department and providing for payment of compensation in case of death or injury to such member of any of them incurred in the line of duty in such fire department.

The coverage of the blanket policy of insurance is clearly limited to this subsection to those cases where the death or injury is incurred in the line of duty in such fire department.

When the amendment contained in Chapter 208, Laws of 1967 become effective on July 1, 1967, this subsection will read:

7. The payment of premiums upon a blanket policy of insurance covering the members of such fire department and providing for payment of compensation in case of death or injury to such member or any of them.

The words "incurred in the line of duty in such fire department.", which limited the coverage were deleted by this amendment. The rule in construing amendatory statutes has been stated by the Supreme Court of Montana many times. In **Nicholas v. School District No. 3 et al.**, 87 Mont. 181, 287 Pac. 624 it was held:

In the construction of an amendatory Act it will be presumed that the legislature, in adopting it, intended to make some change in the existing law (State ex rel. Public Service Comm. v. Brannon, 86 Mont. 200, 283 Pac. 202), and the courts will endeavor to give some effect to the amendment. (State ex rel. Bank v. Hays, supra; 36 Cyc. 166). And this presumption is fairly strong in the case of an isolated, independent amendment, as here. (State ex rel. **Rankin v. Wibaux County Bank of Wibaux**, 85 Mont. 532, 281 Pac. 341; 36 Cyc. 1164.) When changes have been introduced by amendment whether by omission, addition or substitution of words, it is not to be assumed that they are without design. (2 Lewis' Sutherland on Statutory Construction, 2d ed., 777.)

Considering the amendment to 11-1928, R.C.M. 1947, in light of the above quoted rule of construction it is my opinion that the legislature intended by deleting the aforementioned words to remove the restriction imposed by them and therefore to allow a Fire Department Relief Association to pay for premiums upon a blanket policy of insurance that will provide for compensation in case of death or injury to any members not incurred in the line of duty as a fireman.

Very truly yours,

FORREST H. ANDERSON
Attorney General

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