

VOLUME 32

Opinion No. 9

**FIRE DEPARTMENT RELIEF ASSOCIATION; Refund of Contributions, entitlement—Section 11-1911, R.C.M. 1947.**

**HELD: Firemen separated from service after July 1, 1967, for reasons other than retirement, death or disability are entitled to a return of all contributions made by them to the disability and pension fund of the fire department relief association.**

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August 17, 1967

Mr. Robert K. Mackey  
Deputy State Fire Marshal  
Capitol Building  
Helena, Montana

Dear Mr. Mackey:

In your letter of July 31, 1967, you requested my opinion on the following questions in respect to refunds of contributions made to the fireman's disability and pension fund of the fire department relief association:

1. What persons are entitled to a refund?

2. Does the refund include contributions made prior to July 1, 1967?

1. Prior to July 1st refunds of contributions could not be made to anyone. (Vol. 21, Report and Official Opinions of the Attorney General, no. 168, p. 232.) By the enactment of House Bill 256, amending section 11-1911, R.C.M. 1947, a change was made in existing law. The relevant portion of the amendment is as follows:

\* \* \* \*

Any such paid or part paid fireman shall be entitled to a return, in lump sum, without interest, of all monthly contributions made by him to such funds, within sixty (60) days of his permanent separation from service in the fire department of such city, town or municipality, except separation by reasons of retirement, death or disability, which would otherwise qualify such separated fireman, his widow or orphans, to benefits or allowances from such fire department relief association.

It is my opinion that all firemen permanently separated after July 1, 1967, and prior to eligibility for service disability or death benefits, are entitled to a refund. Firemen separated prior to July 1, 1967, are not entitled to a refund.

2. A qualified fireman is eligible for a refund to the extent he has contributed. Under the new law this means "all" contributions including those made prior to July 1, 1967.

Very truly yours,

FORREST H. ANDERSON  
Attorney General

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