

**OPINION**  
**62-63**

July 27, 1962 (OPINION)

CIVIL DEFENSE

RE: Counties - Basis for Assessment of Workmen's Compensation Premi

This is in reply to your letter of July 6, 1962. You ask with reference to Civil Defense trainees being covered under the Workmen's Compensation Laws, whether Ward County must pay the premiums for those trainees who live and work within the city of Minot in the absence of a Civil Defense organization for that city. You further ask if the city of Minot can be compelled to form a Civil Defense organization.

Section 37-17-08 of the North Dakota Century Code, which provides for local organization of Civil Defense Units, does not contain penalty provisions for a failure of a political subdivision to organize. The statute being directory and not mandatory leaves the State Director without power to force the city of Minot to organize a Civil Defense Unit.

Section 65-06-04 of the North Dakota Century Code, which provides for assessment of premiums against municipalities, states that the assessment shall be a fixed sum per each one hundred of population of the municipality involved. You will note that the statute uses the term "municipality" throughout the section. Our court held that the term "municipality" includes a county in Tracy v. Barnes County, 289 N.W. 377, 378, 69 N.D. 602. It is clear that the Legislature also intended this application of the word. Your question was "whether or not cities such as Minot should be included in the county population for purposes of assessment of premiums." There is only one Civil Defense organization in Ward County and that is at the county level. There are civil defense workers serving the city of Minot, therefore, it would seem that the population of Minot should be included for assessment of premiums.

Concerning your more specific question of whether Ward County must pay the premiums for the trainees in the city of Minot, it would be our opinion that it should. Section 65-06-02 of the N.D.C.C. states that volunteer firemen and volunteer civil defense trainees are employees of the municipalities which they serve and are entitled to the same protection and rights. You will notice that the statute does not say "the municipality in which they work" but "municipality which they serve." The Civil Defense organization of Ward County, being the only organization, serves the city of Minot. Hence, it would also be our opinion that Ward County is responsible for the premiums based upon countywide population which would, of course, include the city of Minot.

I can appreciate the concern of the county in this matter because it might well be more equitable for the city to bear its share of the burden. However, from a reading of both chapters of the Code, it

appears that this was not the intention of the Legislature.

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