

**OPINION  
63-194**

December 10, 1963            (OPINION)

RURAL FIRE DISTRICT

RE: Reimbursement of Volunteer Firemen

This is in response to your request for an opinion concerning the interpretation of section 18-10-06, subsection 8 of the North Dakota Century Code relating to the powers of a rural fire district. The specific question is whether or not the rural fire district is able to pay for services of the firemen or for replacement of clothing ruined when fighting a fire. Section 18-10-06, as is material here, provides as follows:

POWERS OF BOARD OF DIRECTORS. The board of directors shall have the following general powers:

1. \* \* \*
4. To make an annual estimate of the probable expense for carrying out such program.
3. \* \* \*
4. To manage and conduct the business affairs of the district;
5. \* \* \*
6. \* \* \*
7. \* \* \*
8. To organize, establish, equip, maintain and supervise a volunteer fire department or company to serve the district; and
9. Generally to perform all acts necessary to fully carry out the purposes of this chapter."

While the above quoted section does not provide that the fire district may reimburse firemen for services or replacement of clothing for fighting a fire that, in itself, does not preclude the fire district from allowing or paying certain expenses incurred by firemen as a result of fighting a fire. Under the quoted subsections above, the district has implied powers to implement and carry out necessary items to make a fire fighting district effective. A fire district, of course, will not be of any great value without the necessary manpower to operate it . . . particularly, the manpower necessary to fight a fire as distinguished from policymaking and operating the administrative affairs of a fire district.

A fire district, while not identical with a municipality, nevertheless has certain functions which are in many respects similar to a municipality. The general rule of law is that a person or

official may be reimbursed for services rendered where the person also acted in a manner in which the municipal corporation had an interest and was acting in the discharge of a duty imposed or authorized by law and acted in good faith. (McQuillin Municipal Corporations, Third Edition, Volume 3, Section 12 - 137, p. 574.) The same authority also provides that a person may be reimbursed for injury sustained under the above conditions. A volunteer, as distinguished from a paid fireman, does not receive a flat salary for the services that he renders. Nevertheless, once he is accepted as a volunteer fireman and performs his duty as authorized, he comes within the class of a person acting in matters in which the corporation has an interest and is discharging a duty authorized by law and has acted in good faith. As we noted, fire fighting men are essential to a fire district to successfully carry out its program.

It is, therefore, our opinion that the governing body of a fire fighting district under Chapter 18-10 of the North Dakota Century Code may by a proper resolution provide for reimbursement of volunteer firemen responding to a fire call. Such reimbursement can be on the basis of a flat rate of one, two, three or more dollars per individual who responds to a fire call, appears and assists in fighting a fire. Such amount would be in lieu of the expenses incurred by the individual volunteer.

It is also our opinion that the fire district board may, by resolution properly adopted, provide for reimbursement of other expenses conditioned on the proposition that the expenses were necessarily incurred as a result of responding to a fire call and appearing and aiding in fighting a fire.

In addition to the foregoing, we are enclosing herewith a copy of an opinion dated January 14, 1954, addressed to Mr. Vance Arneson, State Deputy Fire Marshal.

HELGI JOHANNESON

Attorney General