

OPINION
65-481

October 13, 1965 (OPINION)

Mr. Albert A. Wolf

State's Attorney

Burleigh County

RE: Workmen's Compensation - County Agents - Premium

This is in response to your letter in which you make reference to chapters 65-04 and 4-08 of the North Dakota Century Code, and a letter written by the Cooperative Extension Work in Agricultural and Home Economics, a department of the North Dakota State University, dated May 27, 1959, all pertaining to Workmen's Compensation premiums with reference to county agents. You then ask the following questions:

- (a) Is the premium paid by the Extension Service to constitute full premium payment assuring the employee of full coverage?
- (b) Is the County required or authorized to make additional premium payments merely because the salary is paid by the County as well?
- (c) Is the County authorized to make a premium payment out of a mill levy, which payment, in fact, duplicates a premium payment made by the Extension Service?"

Basically, without taking into consideration rate classification, Workmen's Compensation premium is based upon the first \$3,600.00 of the salary of an employee. The county agent is generally considered an employee of the county. The nature of the services performed by the county agent has many things in common with the efforts of the extension work of the State University. Both the extension services and the county agent have similar goals and objectives. It is not uncommon to join in mutual efforts and programs. The extension service as an arm of the state is, in reality, cooperating with the county in the furtherance of the mutual program. Many joint enterprises under the Workmen's Compensation program are treated as one employing unit, or as one employer. In such instances the Workmen's Compensation Bureau is not interested in the proportionate allocation of costs between the joint employers or enterprisers.

From the letter referred to, it appears that the extension service as part of its contribution to the joint effort has undertaken to pay a certain portion of the county agent's salary and the entire Workmen's Compensation premium for the county agent. Such arrangement is not contrary to any provisions of the Workmen's Compensation Act.

In direct response to your first question, it is our opinion that where the extension service pays the full premium on the maximum (\$3,600.00 per year), said payment constitutes premium for all of the services rendered by the county agent, whether paid for by the county or by the extension service.

In answer to your second question, it is our opinion that the county is not required to pay any additional premium for the salary paid by the county if the premium paid was for the maximum salary subject to premium.

In answer to your third question, the county is authorized to pay the premium out of the mill levy, but if the premium has already been paid by the extension service, the county would not be authorized to duplicate the premium already paid.

The foregoing answers readily recognize that some administrative problems will be encountered in applying the merit charge or credit, but these are matters which will have to be worked out administratively. The foregoing conclusions are predicated on the proposition that there is an understanding and agreement between the extension service and the county. The extension service should report to the Bureau those employees on which it is paying the premium as county agents. Because the county agent and the extension service are all within one "political family" there is no incompatibility as to those units joining in a common objective or enterprise for Workmen's Compensation purposes.

HELGI JOHANNESON

Attorney General