

Opinion No. 59-40

April 21, 1959

BY: FRANK B. ZINN, Attorney General

TO: State Board of Finance Santa Fe, New Mexico. Attention: Mr. Robert D. Castner, Secretary

Municipalities may spend fire protection fund money for insurance coverage on volunteer fire department members for accidental death and disability

OPINION

{*62} This is in reply to your recent inquiry seeking an opinion of this office on the propriety of an expenditure by the Board of Trustees of the Town of Tatum for an insurance policy covering their volunteer fire department, the policy coverage to include accidental death benefits, disability benefits and medical expenses.

It is my opinion that the Town of Tatum may purchase insurance coverage for the members of the volunteer fire department and utilize fire protection fund money to pay the premiums for the purpose of indemnifying the members of the fire department for accidental injury and for death.

Section 14-20-1, N.M.S.A., 1953 Compilation provides:

"Any incorporated city or town having a regular organized volunteer fire department may take out for the protection of such volunteer firemen an accident policy or policies, in some accident insurance company authorized to do business in the state of New Mexico, and pay the premium therefor out of the fire fund of such incorporated city or town. Such policies shall provide for the payment to such volunteer firemen of suitable sums for injuries, and a gross sum of not less than \$ 2,000 in case of death."

Section 58-5-2.1, N.M.S.A., 1953 Compilation (p.s.) relating to fire protection funds contains among other things the following statement:

"The money so distributed to such cities, towns and villages, shall be expended only for the maintenance of such fire departments, the purchase, maintenance, repair and operation of fire apparatus and equipment, the payment of insurance premiums upon fire apparatus and equipment including buildings housing such fire departments, **and insurance premiums for injuries or death of firemen as otherwise provided by law.**" (Emphasis ours)

In your letter of inquiry you noted that the insurance coverage proposed included life insurance in the amount of \$ 5000.00, weekly disability benefits at the rate of \$ 50 for 52 weeks maximum and \$ 2,500.00 medical expense. Assuming that the basic policy is an

accidental death and disability policy with the life insurance coverage limited to accidental death not ordinary life insurance, then the policy would fit the limitations of the provisions of law permitting such a purchase, except for the medical coverage proposed. It is my recommendation that the Town of Tatum be asked to send along for your inspection a sample of the proposed policy so that it may be determined to be within the limitations of the cited statutes.