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FIREMEN—INSURANCE, § 505.23 RC—CHAPTER 3310. RC DOES NOT RESTRICT AUTHORITY TO EXPEND FUNDS FOR PURCHASE OF STANDARD CASUALTY INSURANCE UNDER § 505.23 RC.

SYLLABUS :

Chapter 3310., Revised Code, does not place any restriction upon the expenditure of funds by a political subdivision for the purpose of purchasing standard casualty insurance under the provisions of Section 505.23, Revised Code.

Columbus, Ohio, December 27, 1957

Hon. Ralph A. Hill, Prosecuting Attorney
Clermont County, Batavia, Ohio

Dear Sir:

Your request for my opinion reads as follows :

“The last Legislature passed Chapter 3310, providing for a new Volunteer Firemen’s Dependents Fund. This chapter would

seem to pre-empt, on the part of the State, accident and death insurance for volunteer firemen and their dependents.

“Section 505.23 of the Revised Code provides for the purchase of casualty insurance for volunteer firemen, from standard casualty companies. This section was not revised or revoked at the last session of the Legislature during which the above chapter was enacted.

“Please advise if, in your opinion, the new chapter places any restrictions upon a township or village expending funds in the purchase of standard casualty insurance for accident and death benefits for members of its volunteer fire department, under the provisions of Section 505.23, in addition to the benefits provided in Chapter 3310.”

Section 505.23, Revised Code, reads as follows :

“Any political subdivision which maintains and operates a volunteer fire department may provide for accident and death benefits for the members of such fire department by the purchase of standard casualty insurance, insuring such members while acting in the line of duty.

“When two or more political subdivisions jointly own, control, or manage a volunteer fire department, this section shall apply at the discretion of the legislative authority of such subdivisions.”

The language in the above quoted statute is obviously permissive in nature. Thus, a subdivision may purchase casualty insurance for the members of its volunteer fire department, but there is no requirement that a subdivision must purchase such insurance.

Chapter 3310., Revised Code, provides for the establishing of a volunteer firemen's dependents fund. It is further provided that any political subdivision maintaining a volunteer fire department must be a member of the dependents fund and must contribute to such fund. An examination of these statutes reveals no reference to Section 505.23, *supra*, nor is there any language specifically prohibiting a political subdivision from providing insurance for its volunteer firemen in addition to that required by Chapter 3310., Revised Code.

Although Section 505.23, *supra*, was neither amended nor repealed by the legislature, you have raised the question of the possibility of repeal by implication. It must be remembered, however, that amendment or

repeal by implication is not favored and is recognized only when made necessary by reason of irreconcilable conflict between old and new enactments. Although each political subdivision maintaining a volunteer fire department is required by law to be a member of the volunteer firemen's dependents fund, it is my opinion that such required membership does not prohibit a political subdivision from providing additional accident insurance for its volunteer firemen.

Accordingly, in specific answer to your inquiry, it is my opinion that Chapter 3310., Revised Code, does not place any restriction upon the expenditure of funds by a political subdivision for the purpose of purchasing standard casualty insurance under the provisions of Section 505.23, Revised Code.

Respectfully,
WILLIAM SAXBE
Attorney General