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FIRE DISTRICTS MAINTAINING VOLUNTEER FIRE DEPARTMENTS — SERVED BY TWO DEPARTMENTS — OBLIGATION TO PAY PREMIUMS TO FIREMEN'S DEPENDENTS FUND— §§3310.09, 3310.11, R.C.

SYLLABUS:

1. A fire district maintaining a volunteer fire department prior to November 1, 1957, was required to pay on or before such date, only one premium under Section 3310.09, Revised Code, regardless of the fact that such fire district was served by two volunteer fire departments as of such date.

2. A fire district which established a fire department after November 1, 1957, is required by Section 3310.11, Revised Code, to pay at or before the time such fire department is activated, only one premium under Section 3310.09, Revised Code, regardless of the fact that such fire district is served by two volunteer fire departments.

Columbus, Ohio, January 21, 1960

Hon. James W. Freeman, Prosecuting Attorney
Coshocton County, Coshocton, Ohio

Dear Sir:

I have before me your letter requesting my opinion and reading as follows:

“On August 3, 1951, the Trustees of Tuscarawas Township, Coshocton County, Ohio adopted a Resolution whereby “a fire district is hereby created in that portion of Tuscarawas Township, Coshocton County, Ohio, not included within the corporate limits of the municipality of Coshocton, Ohio, and said fire district shall hereafter be known as ‘The Tuscarawas Township Fire District.’” Subsequently, two separate volunteer fire departments were established within the fire district. Each department has a station and a chief appointed by the trustees and each operates under its own rules and regulations.

“Pursuant to the provisions of R. C. 3310.02-3310.08 only one Volunteer Firemen's dependents board has been established within the fire district.

“Question: Do the provisions of R. C. 3310.09 require the payments of two separate premiums based upon the currently assessed property valuation of the territory included within each of the fire departments or should there be only one premium based

upon the currently assessed property valuation of the territory included in 'The Tuscarawas Township Fire District?'

Section 3310.02, Revised Code, reads as follows:

"Volunteer firemen's dependents boards are hereby established for the administration of a volunteer firemen's dependents fund as defined in section 3310.01 of the Revised Code. Such boards shall be established in each township, fire district, or municipality having a fire department employing volunteer firemen."

Section 3310.08, Revised Code, reads as follows:

"Upon election of board members as provided for in section 3310.04 of the Revised Code, they shall meet forthwith and hold an organizational meeting. At such time the board shall elect a chairman and a secretary. The secretary shall keep a complete record of the proceedings of the board, which record will be maintained as a permanent file.

"The secretary shall immediately certify to the auditor of state the names and addresses of the members elected, by whom elected, and the names of the board chairman and secretary. He shall also forward a certificate or statement by the clerk of the township, municipality, or fire district of the current assessed valuation of such township, municipality, or fire district."

Section 3310.09, Revised Code, reads as follows:

"Each political subdivision or fire district maintaining in whole or in part a volunteer fire department, or which employs volunteer firemen as defined in section 3310.01 of the Revised Code, is hereby declared to be a member of the fund and shall, on or before November 1, 1957, pay to the treasurer of the state of Ohio, to the credit of the volunteer firemen's dependents fund, the initial premiums set forth as follows:

"(A) Class one; those having an assessed property valuation of less than seven million dollars; a premium of three hundred dollars.

"(B) Class two; those having an assessed property valuation of seven million dollars but less than fourteen million dollars; a premium of three hundred fifty dollars.

"(C) Class three; those having an assessed property valuation of fourteen million dollars but less than twenty-one million dollars; a premium of four hundred dollars.

"(D) Class four; those having an assessed property valuation of twenty-one million dollars but less than twenty-eight million dollars; a premium of four hundred fifty dollars.

“(E) Class five; those having an assessed property valuation of twenty-eight million dollars or over; a premium of five hundred dollars.”

It will be noted that authority for creation of volunteer firemen’s dependents boards is clearly established by virtue of Section 3310.02, Revised Code, *supra*, for the benefit of volunteer firemen’s dependents as defined by Section 3310.01, Revised Code.

It is further noted that Section 3310.06, Revised Code, provides for the method of election of members of the volunteer firemen’s dependents board, as follows:

“* * * The secretary of the board shall give notice of such election by posting it in a conspicuous place at the headquarters of the fire department *and at the house of each company composing such fire department.* * * *” (Emphasis added)

Section 3310.06, Revised Code, therefore, clearly provides that the board shall be elected by the members of the fire department and also provides for the posting of the election notice in the headquarters of the fire department and “at the house of each company composing such fire department.” It then follows that there shall be one volunteer firemen’s dependents board that shall administer the fund for the benefit of the fire department, *whether there be one company or several companies composing a fire department in a political subdivision or fire district.*

Section 3310.04, Revised Code, reads in part as follows:

“Volunteer firemen’s dependents boards shall consist of five members who shall be chosen as follows:

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“(B) Two members shall be elected by the fire department of the township, fire district, or municipality.”

Thus, it is clearly indicated that two members of the board are elected by the fire department of a fire district, or municipality, in concert with all membership of the entire department whether there be only one company or several companies in the fire department.

Section 3310.09, Revised Code, *supra*, expressly provides that each fire district maintaining a volunteer fire department is declared to be a member of the fund and further provides for the payment of initial premiums to the fund according to assessed property valuation of the fire dis-

trict. Nowhere in Sections 3310.01 to 3310.24, inclusive, Revised Code, is there made mention of separate premiums to be paid by component companies of a fire department in a fire district. It follows, therefore, that there is no requirement for the payment of individual premiums by separate fire companies in an established fire district where only one volunteer firemen's dependents board has been established.

I note that Section 3310.09, *supra*, required the initial payments to be made on or before November 1, 1957. Section 3310.10, Revised Code, authorized the county auditor where the payment was not so made, to withhold the amount of the assessment, plus interest, from the next ensuing tax settlement due such member, and to pay the same to the treasurer of state for the credit of the volunteer firemen's dependents fund. Section 3310.11, Revised Code, provides that any political subdivision or combination thereof which establishes a fire department after November 1, 1957, shall at or before the time it is activated, comply with Sections 3310.01 to 3310.24, inclusive, Revised Code.

Your letter indicates that the township fire district was created in 1951 and, subsequently, two separate volunteer fire departments were established within the fire district. It would therefore seem that the fire district would have already paid its initial premium either directly under Section 3310.09, Revised Code, or by having same withheld by the county auditor under Section 3310.10, Revised Code. It is possible, however, that the fire department was not established prior to November 1, 1957, and thus the premium would be paid pursuant to Section 3310.11, Revised Code.

Accordingly, it is my opinion and you are advised:

1. A fire district maintaining a volunteer fire department prior to November 1, 1957, was required to pay on or before such date, only one premium under Section 3310.09, Revised Code, regardless of the fact that such fire district was served by two volunteer fire departments as of such date.

2. A fire district which established a fire department after November 1, 1957, is required by Section 3310.11, Revised Code, to pay at or before the time such fire department is activated, only one premium under Section 3310.09, Revised Code, regardless of the fact that such fire district is served by two volunteer fire departments.

Respectfully,

MARK McELROY
Attorney General