



**THE ATTORNEY GENERAL
OF TEXAS
AUSTIN, TEXAS**

**PRICE DANIEL
ATTORNEY GENERAL**

**FAGAN DICKSON
FIRST ASSISTANT**

June 26, 1948

Hon. G. F. Williams
Firemen's Pension Commissioner
Austin, Texas

Opinion No. V-618

Re: Construction of
Firemen's Dis-
ability and Retire-
ment Act as to the
expression "fully
paid Fire Depart-
ment" contained in
Section 8.

Dear Sir:

Your request for an opinion upon the above stated
subject matter is as follows:

"Section 8 of the Firemen's Disability
and Retirement Law, (H. B. 258 45th Leg.) pro-
vides that Medical and Hospital services shall
be paid for Volunteer Firemen and shall not
apply to any city or town having a fully paid
fire department.

"In some instances fire departments have
one paid fireman and the rest are volunteers.
I would like to have a ruling on whether or
not Section 8 would apply to the paid man in
a case like this."

Section 8 of the Firemen's Relief and Retirement
Act, (H. B. No. 258 of the Regular Session of the 45th Leg-
islature) is as follows:

"Whenever any duly enrolled member of any
regularly organized active fire department of
any city or town now coming within or that may
hereafter come within the provisions of this
Act as herein limited, on account of accident
or other temporary disability caused or sus-
tained while in, and/or in consequence of the
performance of his duties, be confined to any
hospital or to his bed and/or shall require

the professional services of a physician, surgeon or nurse, said Board of Trustees shall upon presentation of properly itemized and verified bills therefor, order paid from the Firemen's Relief and Retirement Fund of that city or town, all necessary hospital, physician's, surgeon's, nurses' and/or medicine bills or expenses and not less than Five Dollars (\$5) nor more than Fifteen Dollars (\$15) per week to such fireman during such temporary disability; provided however, that in no case shall the amount or amounts so paid for such bills and expenses exceed the aggregate sum of One Hundred Dollars (\$100) in any one month; and provided further, that the benefits provided by this Section shall not apply to any city or town having a fully paid fire department."

The dominating purpose of H. B. No. 258, as appears from the title to the Bill and likewise from the entire context thereof, is to afford relief and retirement benefits to firemen of the cities, towns and villages of the State. In Section 26 the word "firemen" or "fireman" means and includes all active members of any regularly organized Fire Department of any incorporated city or town of this State, having fire-fighting equipment or apparatus of the minimum value of One Thousand (\$1,000) Dollars or more, whether wholly paid, partly paid and partly volunteer, or wholly volunteer. These are the members entitled to benefits provided by the Act.

The language of Section 8 above quoted is clear and unambiguous in respect to the proviso under consideration. That proviso is "and provided further, that the benefits provided by this Section shall not apply to any city or town having a fully paid Fire Department." In the instance put by you, that is, in a Fire Department having one paid fireman and the other members are volunteers, it cannot possibly be said that there exists a "fully paid Fire Department." It takes all the members of the Department to constitute the Department, and where only one of such members is a paid fireman, it cannot be said that the Department is a "fully paid" one.

The member benefits of Section 8 of the Firemen's Disability and Retirement Act, therefore, do apply to the case you state.

SUMMARY

The benefits provided in Section 8 of the Firemen's Relief and Retirement Act (H. B. No. 258, R. S. 45th Leg.) apply to a city or town whose Fire Department has one paid fireman and the other members are volunteers.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

Ocie Speer
Ocie Speer
Assistant

APPROVED:

Fagan Dickson
FIRST ASSISTANT
ATTORNEY GENERAL

OS:b:wb