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ARIZONA ATTORNEY GENERAL

October 7, 1954
Opinion No. 54-149

TO: Mr. Edwin C. Gracey, Supervisor
Trades and Industrial Distributive
Education
400 Arizona State Building
Phoenix, Arizona

RE: Volunteer firemen

QUESTION: What authority or discretion does the
Firemen's Relief and Pension Board have
with regard to payment of temporary
relief and assistance to a member of a
volunteer fire department?

The section dealing with relief and assistance, 16-1908a,
A.C.A. 1939, as amended by Chapter 62, Laws of 1953, reads as
follows:

"16-1908a. Relief and assistance.
The board of trustees is authorized to
grant temporary relief and assistance
from moneys of the fund to any qualified
member of a legally organized volunteer
fire company or department, or to his
widow or surviving dependents. * * *"

We would like to point out at the beginning of this opinion,
that the above quoted statute is separate and apart from relief
benefits that are granted under the various statutes pertaining
to general relief and assistance to firemen, and that there are
no maximum benefits set forth in the above statute. Consequently,
the Board of Trustees has a certain amount of discretion in the
granting of such temporary relief.

Benefits of a temporary nature are conferred by the above
quoted section upon duly qualified volunteer firemen, their widows
or dependents. In determining the extent of these benefits it is
necessary to first determine that it is within the administrative
authority of a board of trustees to ascertain the conditions pre-
cedent to the finding of a need for temporary relief and assistance

and to grant such relief and assistance in an amount and for such a time as the board of trustees deems necessary in keeping within the spirit of the Firemen's Relief and Pension Fund. Section 16-1901 et seq, A.C.A. 1939, as amended.

The authority of an administrative body to act in its discretion in executing a provision of a law pursuant to that law does not necessarily involve a delegation of power and authority to make the law. See 42 Am. Jur. Section 43. Section 16-1908a, supra, creates a temporary form of relief and assistance to be granted specific beneficiaries. In determining what will constitute the need for and the amount of such aid, a board of trustees will exercise only that particular power of discretion which will execute the law as promulgated and will not result in actual legislation by the board of trustees.

In exercising the power of discretion conferred upon it by the legislature, a board of trustees must act within the scope of "What is reasonable under the circumstances?"

In determining what is reasonable, due weight should be given to the limits as set forth in the various statutes pertaining to relief and assistance. Section 16-1901 et seq, A.C.A. 1939, as amended. All these factors should govern the action of a board of trustees in granting temporary relief and assistance in accordance with the provisions of Section 16-1908a, supra.

Inasmuch as the duty of exercising the powers of discretion in administering temporary relief and assistance by a board of trustees will ultimately depend upon the sound judgment of such a board, this exercise of discretionary power must be guided by the principle of "reasonableness" in the light of all attendant circumstances. A board of trustees is thus bound to carefully scrutinize each single instance wherein the need for the dispersion of temporary relief and assistance is suggested, and to render such aid only upon adequate consideration of each and every aspect of the particular case, with emphasis upon its determination remaining within the objectives and principles of the Firemen's Relief and Pension Fund.

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