

CITIES OF THE THIRD CLASS: It is not compulsory for cities of the third class to carry Workmen's Compensation Insurance for employes of Electric Light and Water Plants.

PAUPERS: County Court should bear expense of burying paupers in cities of the third class.

July 13, 1936



Mr. W. C. Fisher,
City Clerk,
Hannibal, Missouri.

Dear Sir:

We are in receipt of your letter of June 18th, requesting an official opinion, which reads as follows:

"Is it compulsory for municipalities to carry Workmen's Compensation Insurance? I mean by this all departments including Electric Light and Water Plants, which are municipally owned. If it is compulsory, is there any way to carry it without paying an exorbitant premium to the insurance companies.

"We pay a tax to the County which I understand is to pay for the care of patients at the infirmary and also the burial of paupers in the City of Hannibal. We have been paying for the burial of our paupers, but recently we have been informed that the County should pay this expense out of the taxes collected from the City of Hannibal for that purpose.

"We are a City of third class and working under a special charter and not exempt on any taxes."

In answering your inquiry we shall take the questions in the order in which they appear.

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- (1) "Is it compulsory for municipalities to carry Workmen's Compensation Insurance? I mean by this all departments including Electric Light and Water Plants, which are municipally owned."

It is the opinion of this department that it is not compulsory for a municipality to carry Workmen's Compensation Insurance in this instance.

Section 3300, R. S. Mo. 1929, reads in part as follows:

"Every employer and every employe, except as in this chapter otherwise provided, shall be conclusively presumed to have elected to accept the provisions of this chapter * * *."

Section 3303, R. S. Mo. 1929, reads in part as follows:

"Section 3300, 3301 and 3302 of this chapter shall not apply to any of the following employments: First: Employments by the state, county, municipal corporation, township, school or road, drainage, swamp and levy districts, or school board, board of education, regents, curators, managers, or control commission, board or any other political subdivisions, corporation, or quasi-corporation thereof."

Section 3304, R. S. Mo. 1929, construes the word "employer" as used in this chapter "Workmen 's Compensation".

Section 3304, R. S. Mo. 1929, reads in part as follows:

"The word 'employer' as used in this chapter shall be construed to mean:

"(a) * * *

"(b) The state, county, municipal corporation, township, school or road, drainage, swamp and levee districts, or school boards, board of education, regents, curators, managers or control

commission, board or any other political subdivision, corporation, or quasi-corporation, or cities under special charter, or under the commission form of government, which elects to accept this chapter by law or ordinance."

As said in State ex rel. Cobb v. Thompson, 319 Mo. 1. c. 496;

"The rule is well stated, as follows:

"A statute is not to be read as if open to construction as a matter of course. It is only in case of ambiguous statutes of uncertain meaning that the rules of construction can have any application. Where the language of a statute is plain and unambiguous and its meaning clear and unmistakable, there is no room for construction, and the courts are not permitted to search for its meaning beyond the statute itself."

Therefore, from the foregoing and in the absence of any statutory constitutional provision to the contrary, it is the opinion of this department that a municipality is expressly excluded from the provisions of the Workmen's Compensation Act, unless as provided in Section 3304, supra, they so elect to accept same by law or ordinance.

Your second question is as follows:

"We have been paying for the burial of our paupers, but recently we have been informed that the County should pay this expense out of the taxes collected from the City of Hannibal for that purpose."

Section 12955, R. S. Mo. 1929, provides:

"The county court of the proper county shall allow such sum as it shall think reasonable, for the funeral expenses of any person who shall die within the county without means to pay such funeral expenses."

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It is, therefore, the opinion of this department that the above statute controls and that the county is liable for the payment of the burial of its paupers.

CONCLUSION

(1) That a municipality does not come under the provisions of the Workmen's Compensation Act as provided in Chapter 28, R. S. Mo. 1929, in the absence of any statutory or constitutional provision to the contrary, unless they so elect to accept the same by law or ordinance.

(2) That the county is liable for the payment of the burial of its paupers.

Respectfully submitted,

J. E. TAYLOR,
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General.

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