

December 5, 1974

OPINION LETTER NO. 341  
Answer by Letter - Klaffenbach

Honorable Bud Fendler  
State Representative, District 104  
527 Hoffmeister  
St. Louis, Missouri 63125



Dear Representative Fendler:

This letter is in response to your question asking whether board members of a fire protection district have the authority to use tax district revenue to pay premiums on liability insurance to protect themselves against damage suits.

There is no statutory authority for board members to purchase liability insurance to protect themselves against damage suits. Such insurance cannot be provided on the basis that it constitutes additional compensation for such board members because such members maximum compensation is fixed under Section 321.190, RSMo Supp. 1973, and because such directors do not have authority to increase their compensation except within the limits of that statute. We assume therefore that the question does not assume that insurance is to be provided such members on the theory of additional compensation.

We are aware of cases such as People v. Standard Accident Insurance Co., 108 P.2d 923 (Calif. 1941), which hold that the purchase of such insurance by a public body is justified on the basis that such purchase is for a public purpose. It is our view that such holdings minority holdings which would not be followed by the Missouri courts.

We conclude that such directors do not have authority to use public money to purchase liability insurance to protect themselves.

Very truly yours,

JOHN C. DANFORTH  
Attorney General