

OPINION
67-183

February 8, 1967 (OPINION)

Mr. Calvin A. Calton

State's Attorney

Divide County

RE: Rural Fire Protection Districts - Purpose - Contracts

This is in response to your letter in which you ask for an opinion on the following question:

"'Under chapter 18-10, North Dakota Century Code, may a rural fire protection district be properly formed for the purpose only of levying taxes and contracting with a city for fire protection services, paying such tax levies over to the city pursuant to such contract - such rural fire protection district having no equipment, no fire department or any other function except a levy of a tax pursuant to said statute and payment thereof over to the city fire department for its services?'"

Chapter 18-10 of the North Dakota Century Code provides the manner in which a rural fire protection district may be organized. Under section 18-10-06, the general powers of the board of directors of a rural fire protection district are set out. More specifically, though section 18-10-10 provides that a rural fire protection district "may enter into a contract with an incorporated city or village for fire protection service or fire protection cooperation, upon terms suitable to all concerned, and the power to make such contracts is hereby conferred upon such city or village in addition to such powers as have been heretofore provided by law," section 18-10-14 sets forth the maximum levy that may be made for the purpose of assisting and contributing to the purchase and upkeep of fire fighting equipment. It is thus observed that the rural fire protection district has the authority to contract for fire protection service.

Neither chapter 18-10 or other related statutes imply that the rural fire protection district must exercise all of the powers granted. Neither do these provisions require that in order to exercise any one or the other power, that certain other powers must also be exercised.

Therefore, in direct response to your question, it is our opinion that a rural fire protection district may be properly formed for the purpose of contracting with a city for fire protection service and to pay for same from taxes levied within the minimum prescribed by law. The rural fire protection district under such contract or under the powers granted to it would not have to acquire or maintain fire fighting equipment. The payment to the city for the fire protection service would be pursuant to a contract. The payment, of course, would have to be limited to the revenues produced within the maximum mill levy. It is doubtful that the rural fire protection district could simply levy taxes and turn same over to the city. The district

could, however, limit the tax to the amount needed to satisfy the contract.

HELGI JOHANNESON

Attorney General