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1. FIRE DEPARTMENT — MUNICIPALITY — MONEYS RECEIVED FROM LICENSES AND OTHER FEES—INSPECTION—CREDITED TO FIREMEN'S RELIEF AND PENSION FUND — EXCEPTION, FEES RECEIVED FROM OTHER SUBDIVISIONS FOR FIRE PROTECTION—SECTION 4607 G. C.
2. FEES—SERVICES BY CITY FIRE DEPARTMENT, ORDINANCES, OPERATING SET OF CITY SCALES, OPERATING EMERGENCY AMBULANCE SERVICE—PAID INTO FIREMEN'S RELIEF AND PENSION FUND.
3. FEES FOR MAKING ELECTRICAL INSPECTIONS AS A MEANS OF FIRE PROTECTION, PROPERLY PAID INTO FIREMEN'S RELIEF AND PENSION FUND.

SYLLABUS:

1. Under the provisions of Section 4607, General Code, moneys received from licenses and other fees received by a municipality for services performed or inspections made by the fire department, except fees received by such municipality from other political subdivisions for fire protection, are to be credited to the firemen's relief and pension fund.
2. Fees received for services rendered by a city fire department pursuant to ordinances authorizing the same in operating a set of city scales and in operating an emergency ambulance service, are properly paid into the firemen's relief and pension fund.
3. Fees received for services rendered by the fire department in making electrical inspections as a means of fire protection are properly paid into the firemen's relief and pension fund.

Columbus, Ohio, December 2, 1947

Bureau of Inspection and Supervision of Public Offices
Columbus, Ohio

Gentlemen:

I have before me your letter, in which you request my opinion on the following question:

“When members of a city fire department operate a set of city scales, make all electrical inspections, and operate as emergency ambulance service, how are the fees collected for such services rendered by city firemen to be distributed, and to what city funds shall the same be credited in view of the provisions of Section 4607, General Code?”

Section 4607 of the General Code reads as follows:

“All fines imposed upon members of the fire department of the municipality by discipline or punishment by the authority having charge or control thereof, and the proceeds of all suits for penalties for the violation of a statute of the state or ordinance of such municipality with the execution of which such department is charged, and licenses or other fees payable thereunder, *and fees received by such municipality for any services performed or inspections made by the fire department, except fees charged and received by such municipality from other subdivisions for fire protection or fire fighting in such other subdivisions shall be credited to the firemen's relief and pension fund.*”

(Emphasis added.)

The portion of the above section which I have emphasized, was added by an amendment in 1939. The effect of this amendment appears to be to enlarge slightly the scope of these miscellaneous receipts which are to be credited to the firemen's relief and pension fund, by adding the words, “fees received by such municipality for any services performed or inspections made by the fire department”. There follows an exception as to fees charged and received by the municipality from other subdivisions for fire protection services rendered to such other subdivisions. These latter charges are presumably those growing out of contracts made with other subdivisions under the provisions of Section 3298-60, General Code. It is, however, worthy of note that under the provisions of the last named section, a municipal corporation is authorized to enter into a contract with persons, firms or corporations owning property outside the limits of the

municipality for furnishing fire protection to their property, and it is stipulated in connection with those contracts that twenty-five percent of the amount received by the municipality on any such contract shall be paid into the firemen's pension fund.

Section 4607 supra, does not make it very clear just what moneys arising from licenses or other fees are to be paid into the fund. It is stated that the fund shall receive fees on account of "any services performed or inspections made by the fire department". The general duties of a fire department are set forth in Section 4378, General Code, as follows:

"The fire department shall protect the lives and property of the people in case of fire, and both the police and fire departments shall perform such other duties, not inconsistent herewith, as council by ordinance prescribes."

It appears clearly from the language of this section that a city council may impose upon the fire department and its members duties in addition to their primary duty of fighting fires, the only limitation being that such additional duties must not be "inconsistent herewith". Just what is meant by those quoted words is not clear. I assume that the other duties must be such as in the judgment of the council can be performed without detriment to the primary work of the fire department.

Other statutes impose certain powers and duties upon firemen, particularly on the chief of the fire department, notably Section 824 et seq., General Code, which requires the chief of the fire department in connection with the state fire marshal, to investigate the causes of fire and also make examination of structures, with a view to fire prevention.

Authority is given by the statutes to municipalities to license certain occupations which have more or less connection with the protection of lives and property from hazards of fire, such as that found in Section 3637, General Code, authorizing the licensing of electrical contractors. Municipalities may also regulate by ordinance the installation of electrical wiring.

Referring specifically to the activities mentioned in your question, I am unable to discover any relation between the primary duties of a fire department and the operation of city scales. However, from the nature of this work, there appears no reason why firemen could not attend to the city's scales and still perform their duties as firemen.

As to fees arising from electrical inspection or license fees growing out of the regulation of electrical installations, these would appear to have a reasonable relation to the duties of the fire department if by ordinance these inspections are placed under the charge of the fire department.

As to the operation of a city emergency ambulance, it is my opinion that such service might properly be maintained and operated as one of the functions of the fire department in view of the obvious possibility that fires may cause serious injury to persons and therefore require such emergency service. My understanding is that such service is maintained by the fire department in many cities. While I do not know what fees would properly be chargeable for such service, yet if they are collected pursuant to ordinances authorizing the same, any fees or other rewards arising from such service would properly be paid into the firemen's relief and pension fund.

Respectfully,

HUGH S. JENKINS,
Attorney General.