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INSURANCE, CASUALTY — PURCHASED BY TOWNSHIP TRUSTEES — BENEFITS — ACCIDENT AND DEATH FOR MEMBERS OF VOLUNTEER FIRE DEPARTMENT — MAY BE PAID FOR FROM TOWNSHIP GENERAL FUND — SECTION 3298-62 G. C.

SYLLABUS:

Casualty insurance purchased by township trustees under authority of Section 3298-62, General Code, to provide accident and death benefits for the members of a township volunteer fire department may be paid for from the township general fund.

Columbus, Ohio, April 22, 1944

Hon. Leon C. McCarty, Prosecuting Attorney
Mt. Gilead, Ohio

Dear Sir:

This will acknowledge receipt of your letter inquiring if casualty insurance purchased by township trustees under authority of Section

3298-62, General Code, should be paid for from the township general fund or from the one mill fire fund.

The fire fund referred to in your letter was established from the proceeds of a tax levy made by the township trustees under authority of Section 3298-55, General Code, which reads as follows:

“The trustees of a township are authorized to levy in any year or years a sufficient tax upon all taxable property in the township or in a fire district, or districts, to provide protection against fire and to provide and maintain fire apparatus and appliances and buildings and sites therefor and sources of water supply and materials therefor, and the establishment and maintenance of lines of fire alarm telegraph and the payment of permanent, part-time or volunteer fire fighting companies to operate same.”

It will be noted that the statute just quoted authorizes a tax levy for certain fire protection purposes, but makes no provision for procuring casualty insurance or raising funds therefor. Such being the case, the provision of Section 5625-10, General Code, that “Money paid into any fund shall be used only for the purposes for which such fund is established”, is applicable, and prevents the use of the fire fund for purposes other than those for which the tax was levied.

The authority of township trustees to purchase casualty insurance is contained in Section 3298-62, General Code, which reads as follows:

“Any political subdivision which maintains and operates a volunteer fire department may, at the discretion of its legislative body, provide for accident and death benefits for the members of such fire department by the purchase of standard casualty insurance, insuring such members while acting in the line of duty.”

While Section 3298-62, General Code, authorizes the purchase of casualty insurance, it fails to identify the fund from which the purchase shall be made. In the absence of such provision, it is my opinion that the cost of the insurance may properly be classed as a current expense of the township within the meaning of Paragraph (f) of Section 5625-1, General Code, and paid from the township general fund.

You are therefore advised that casualty insurance purchased by

township trustees under authority of Section 3298-62, General Code, to provide accident and death benefits for the members of a township volunteer fire department may be paid for from the township general fund.

Respectfully,

THOMAS J. HERBERT

Attorney General