

5700.

BONDS—ISSUED UNDER SEC. 2293-43, G. C.—UNPLEDGED
DELINQUENT TAXES AND ASSESSMENTS PAYABLE
INTO SINKING FUND TO RETIRE SUCH BONDS.

SYLLABUS:

When a subdivision issues bonds under Section 2293-43, General Code, the amount of unpledged delinquent taxes and assessments which are collected for such subdivision after the exchange or sale of said bonds shall be paid to the authority having charge of the sinking fund of the subdivision, which money shall be placed in a separate fund for the purpose of retiring said bonds.

COLUMBUS, OHIO, June 8, 1936.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN: I acknowledge receipt of your communication in which you ask the following question:

“When a subdivision has issued bonds under Section 2293-43, General Code, and there are no other obligations outstanding for which delinquent taxes are pledged, is the full amount of the collection of the then delinquent taxes and assessments payable to the authority having charge of the sinking fund, to be placed in a separate fund for the sole purpose of meeting the debt charges on such deficiency bonds, and if not, what percentage of such delinquent collections shall be credited to this separate fund?”

Section 2293-43, General Code, authorizes any subdivision of the state to issue bonds in an amount not to exceed seventy per cent of the net unobligated taxes and assessments due and owing to such subdivision as set forth in the act and not in excess of a sufficient amount to pay the aggregate amount of outstanding accounts or notes payable of the subdivision incurred prior to the commencement of the current fiscal year. The act further provides that the political subdivision desiring to issue such bonds shall obtain from the county auditor of its county a certificate “showing the total amount of delinquent taxes due and unpayable to such subdivision at the last semi-annual tax settlement” and that the fiscal officer of the subdivision shall prepare a statement showing, among other things, the total bonded indebtedness, the aggregate amount of outstanding accounts or notes payable of the subdivision incurred prior to the commencement of the current fiscal year, certain other indebtedness, and the net amount of unpledged delinquent taxes which shall include delinquent as-

assessments on improvements of which the bonds have been paid. Said certificate of the county auditor and the statement of the fiscal officer must be forwarded to the Tax Commission with a request to issue bonds not to exceed seventy per cent of the net unobligated taxes and assessments as shown by said statement.

Paragaphs (e) and (f) of said section read as follows :

“(e) The tax commission of Ohio shall grant to such subdivision authority requested by such subdivision as restricted by sub-sections (c) and (d) hereof and shall make a record of the certificate, statement and grant in a record book devoted solely to such recording and which shall be open to inspection by the public.

(f) The tax commission of Ohio shall immediately upon issuing the authority provided in sub-section (e) notify the proper authority having charge of the retirement of bonds of such subdivision by forwarding a copy of such grant of authority and of the statement provided for in sub-section (b) of this act.”

Your question is perhaps raised by the language of paragraph (h) of the section which reads in part as follows :

“The per centum of delinquent taxes and assessments collected for and to the credit of such subdivision after such exchange or sale of bonds as certified by the tax commission under this act shall be paid to the authority having charge of the sinking fund of the subdivision, which money shall be placed in a separate fund for the purpose of retiring such bonds so issued.
* * *”

This apparently means that the per centum of the delinquent taxes and assessments that are collected for and to the credit of the subdivision after the exchange or sale of the bonds shall be pledged for the payment of said bonds and not to the per centum of the delinquent taxes which the amount of the bonds bears to the total amount of such delinquent taxes. In other words, if bonds are issued to the extent of sixty per cent of the net unobligated delinquent taxes and assessments, the amount of such delinquent taxes and assessments that are collected for the subdivision each year must be placed in a separate fund for the purpose of retiring said bonds until there is sufficient money therein to pay said bonds and interest. This construction would make said paragraph consistent with paragraph (j) of the act which reads in part as follows :

“The budget commission of the county in which the subdivision is located shall annually allocate that portion of the then

delinquent levy due such subdivision which is unpledged for other purposes to the payment of interest and the retirement of the bonds issued under authority of this act.”

Answering your question, therefore, I am of the opinion that when a subdivision issues bonds under Section 2293-43, General Code, the amount of unpledged delinquent taxes and assessments which are collected for such subdivision after the exchange or sale of said bonds shall be paid to the authority having charge of the sinking fund of the subdivision, which money shall be placed in a separate fund for the purpose of retiring said bonds.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5701.

ARREST—VIOLATIONS OF LIQUOR CONTROL ACT—DETENTION OF PRISONER PENDING ISSUANCE OF WARRANT—PROPER COURT TO HEAR SUCH CASE—DUTY OF SHERIFF OVER SUCH PRISONER.

SYLLABUS:

1. *A person arrested without a warrant under the conditions set forth in Section 13432-1, General Code, must be promptly taken by the arresting officer before a court or magistrate having jurisdiction of the offense, and an arresting officer, including an Inspector of the Department of Liquor Control, does not have the power or authority in such a case to detain the prisoner until a particular court or magistrate becomes available if some other court or magistrate having jurisdiction of the offense is available and accessible at the time.*

2. *A person arrested without a warrant can be detained in a county jail for safe-keeping only until a charge can be filed against him by the arresting officer with a court or magistrate having jurisdiction of the offense and available and accessible at the time to the arresting officer.*

3. *A person arrested under a warrant or search warrant can be detained in a county jail by a sheriff for safe-keeping on behalf of the arresting officer only for such time as will permit the arresting officer to safely take the prisoner before the court or magistrate issuing the warrant or to some other court or magistrate having jurisdiction of the offense if the issuing court or magistrate is not available.*

4. *A person arrested for violation of the laws of this state pertaining to the manufacture, sale and distribution of beer and intoxicating*