

It is therefore my opinion, in specific answer to your question, that where the county commissioners have advertised for bids for inactive depositaries under section 2716, General Code, and when, after all the banks bidding therefor have been awarded the amounts bid for, there still remains a balance of inactive funds unawarded, the county commissioners may under section 2715-1, General Code, increase the deposits in the banks awarded the first deposits at the same rate of interest, without further advertising, upon procuring additional securities.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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1814.

OHIO SOLDIERS & SAILORS HOME—BURIAL EXPENSES OF INMATE  
PAID BY COUNTY FROM WHICH COMMITTED, WHEN ESTATE OF  
INMATE INSUFFICIENT TO PAY SAME.

*SYLLABUS:*

*By virtue of Section 3496, General Code, if a soldier who is an inmate of the Ohio Soldiers' and Sailors' Home dies, and does not leave an estate sufficient to cover his burial expenses, the board in control of such institution should pay the expenses of the burial and send an itemized bill of the expenses thereof to the county commissioners of the county from which such indigent person was sent to the institution, and such county should immediately pay such expenses of burial to the board in control of such institution.*

COLUMBUS, OHIO, November 3, 1933.

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

GENTLEMEN:—I am in receipt of your request which reads as follows:

"You are respectfully requested to furnish this department your written opinion upon the following:

If a soldier who is an inmate of the Ohio Soldiers' and Sailors' Home at Sandusky dies, and does not leave an estate sufficient to cover his burial expense, is Erie County required to pay the expense of his burial, or is the county from which he was committed, or his last place of residence, required to pay the same?"

Sections 3495 and 3496, General Code, relate to the burial of indigent poor. Sections 3495 and 3496, General Code, were formerly one section, namely, Section 1500a, Revised Statutes, and the codifying commission separated them. These sections now read as follows:

"Sec. 3495. When the dead body of a person is found in a township or a municipal corporation, *and such person was not an inmate of a penal, reformatory, benevolent or charitable institution*, in this state, and whose body is not claimed by any person for private interment at his own expense, or delivered for the purpose of medical or surgical

study or dissection in accordance with the provisions of section 9984, it shall be disposed of as follows: If he were a legal resident of the county, the proper officers of the township or corporation in which his body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death; if he had a legal residence in any other county of the state at the time of his death, the infirmary superintendent of the county in which his dead body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death, but if he had no legal residence in the state, or his legal residence is unknown, such infirmary superintendent shall cause him to be buried at the expense of the county.

\* \* \* \* \*

"Sec. 3496. In a county in which is located a *state benevolent institution*, the board in control of said institution shall pay all expenses of the burial of a pauper that dies in such institution, except when the body is delivered in accordance with the provisions of section 9984 of the General Code, and send an itemized bill of the expenses thereof to the county commissioners of the county from which the pauper was sent to the institution. Such county commissioners shall immediately pay the bill to such board in control." (Italics the writer's.)

Sections 1905 to 1918, inclusive, of the General Code, provide for the Ohio Soldiers' and Sailors' Home. It is classified in the Ohio General Code as a state benevolent institution. Section 1835, General Code, provides:

"The director of public welfare shall appoint a fiscal supervisor, and such other employes as may be deemed necessary for the efficient conduct of the business, prescribe their titles and duties and fix their compensation, except as otherwise provided herein. The department of public welfare shall have full power to manage and govern the following institutions:

\* \* \* \* \*  
The Ohio Soldiers' and Sailors' Home.  
\* \* \* \* \*

Section 3495, supra, of the General Code, provides for the burial of a person having a legal settlement in a county or whose legal settlement is not in the state, or is unknown. It also specifically excludes inmates of a penal, reformatory, benevolent or charitable institution in this state.

Section 3496, supra, of the General Code, governs in cases where the indigent dies in a state benevolent institution. By its express provisions the board in control of said institution first pays all expenses of the burial of such indigent persons dying in said institutions but after such board sends an itemized bill of the expenses thereof the county commissioners of the county from which such indigent was sent to the institution must immediately pay the bill to such board in control.

From a reading of Section 3496 and by its clear and unambiguous terms it seems to be the evident intention on the part of the legislature that the expense of burial of an indigent person dying in the Ohio Soldiers' and Sailors' Home at Sandusky must finally be paid by the county commissioners of the county from which such person was committed to that institution.

Specifically answering your inquiry, it is my opinion that by virtue of Section 3496, General Code, if a soldier who is an inmate of the Ohio Soldiers' and Sailors' Home at Sandusky dies, and does not leave an estate sufficient to cover his burial expenses, the board in control of such institution should pay the expenses of the burial and send an itemized bill of the expenses thereof to the county commissioners of the county from which such indigent person was sent to the institution, and such county should immediately pay such expenses of burial to the board in control of such institution.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

1815.

COUNTY AUDITOR—UNAUTHORIZED TO TRANSFER FUNDS TO SINKING FUND OR BOND RETIREMENT FUND TO MAKE UP FOR DEFICIENCY IN COLLECTING TAX LEVY FOR SUCH FUND.

*SYLLABUS:*

*When a taxing district levies a tax for its general fund, and also a tax for its bond retirement or sinking fund, and the taxes levied are not collected in full, the county auditor of that county has no authority to allocate to the latter fund the whole amount which should have been realized from such levy had all taxes been fully paid by transferring the deficiency from the amount received from the general fund levy of such district.*

COLUMBUS, OHIO, November 3, 1933.

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

GENTLEMEN:—I acknowledge receipt of your communication, which reads as follows:

"You are respectfully requested to furnish this department your written opinion upon the following:

When a taxing district levies its taxes at a certain rate for the general fund of such district, and a tax for the bond retirement fund or sinking fund, is the county auditor, in making distribution of the taxes collected to such district, required to allocate to the bond retirement fund or the sinking fund the whole amount requested by the taxing district for the bond retirement fund or sinking fund purposes, regardless of the amount of taxes collected, thereby reducing the amount levied for the general fund; or, should the auditor pro rate the delinquencies to the general fund and to the bond retirement fund or sinking fund, and distribute to the taxing district the amount so determined by such pro rating?"

Section 11 of article XII of the Constitution of Ohio reads as follows:

"No bonded indebtedness of the state, or any political subdivisions thereof, shall be incurred or renewed, unless, in the legislation under