

743.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN  
BELLEFONTAINE, LOGAN COUNTY, OHIO.

COLUMBUS, OHIO, August 15, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

744.

FIREMEN'S INDEMNITY FUND—DECEASED FIREMAN'S PARENTS NOT  
ENTITLED TO COMPENSATION.

*SYLLABUS:*

*Payments from the firemen's indemnity fund authorized by Sections 4647-1 to 4647-9, inclusive, of the General Code, are to be made only to the widow and dependent children of a fireman killed in the line of duty, and accordingly, payments from such fund are not authorized to the parents of such deceased fireman.*

COLUMBUS, OHIO, August 15, 1929.

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

GENTLEMEN:—Acknowledgment is made of your recent communication, which reads:

“Section 4647-8, G. C., provides for the amount of compensation to be paid dependents of members of a fire department.

Question: May payments be made out of the indemnity fund to the parents of a member of a volunteer village fire department who was killed in the performance of duty and who had no other dependents?”

Section 4647-8 of the General Code, to which you refer and which relates to payments to be made from the firemen's indemnity fund, provides:

“The beneficiaries of any such firemen's indemnity fund shall be members of the fire department or their dependents who shall be entitled to be paid the amounts following:

For the total disability of a fireman, sustained while in the discharge of his duties as fireman, the sum of two-thirds of his salary or average earnings, which shall in no case exceed eighteen (\$18.00) dollars per week, and which shall be fixed and determined by the said board of firemen's indemnity fund. For partial disability such an amount per week as shall be fixed by the board of firemen's indemnity fund which in no case shall exceed ten (\$10.00) dollars per week. Provided, however, that no such pension shall be paid to a fireman under full salary during the time of any such disability.

To the widow of any fireman killed while in the discharge of his duties as fireman, or who dies from exposure or injury received while in the discharge of such duty, a sum not to exceed twenty-five (\$25.00) dollars per

month, so long as she remains his widow, and the further sum of not to exceed ten (\$10.00) dollars per month for each dependent child under sixteen years of age.

Nothing in this act contained shall be deemed to preclude or limit any municipality from availing itself of the provisions of chapter I, title 12, division 6 of the General Code of Ohio, and a municipality having a firemen's indemnity fund created and maintained under the provisions of this act may at any time avail itself of the said provisions of the General Code and thereupon the provisions of this act shall not apply to such municipalities."

The section above quoted, in express and unambiguous language, provides that the widow of any fireman killed while in the discharge of his duties or who dies from exposure or injuries received while in the discharge of such duties, shall receive a sum not to exceed twenty-five dollars per month so long as she remains his widow. Said section also provides that such widow shall receive a further sum not to exceed ten dollars per month for each dependent child under sixteen years of age. In other words, the section makes no further provision for the payment of any sum to any person in case of the death of the fireman resulting from injuries in the course of his duties, except as above stated.

It will be conceded that it would be a very humane provision to authorize the payment of such sum to the parents of a fireman under such circumstances as you describe. However, the funds arising from the firemen's indemnity fund are provided by a tax levied for the purpose and it is a familiar principle of law in this state that funds arising from taxation must be expended for the purposes for which they were levied. It is another cardinal rule of construction that public funds may not be expended except strictly in conformity to the provisions of law authorizing the same.

Section 4647-8, General Code, quoted above, was amended by the last General Assembly, but, inasmuch as your inquiry was doubtless predicated upon a specific case arising prior to such amendment, I have quoted the section as it formerly read. I may add that the amendment in no wise affects your present question.

You are therefore specifically advised that payments from the firemen's indemnity fund authorized by Sections 4647-1 to 4647-9, inclusive, of the General Code, are to be made only to the widow and dependent children of a fireman killed in the line of duty, and accordingly, payments from such fund are not authorized to the parents of such deceased fireman.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

745.

APPROVAL, BONDS OF RICHLAND TOWNSHIP, MARION COUNTY—  
\$8,448.09.

COLUMBUS, OHIO, August 15, 1929.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*