

question should be submitted for exemption of such levy outside of limitations as will be required to meet the excess of all current expenses above limitations.

Respectfully,
C. C. CRABBE,
Attorney General.

.2716.

COMPENSATION OF FIREMEN SHOULD BE FIXED BY COUNCIL—NO AUTHORITY TO AWARD LUMP SUM TO DEPARTMENT FOR DISTRIBUTION AMONG ITS MEMBERS.

SYLLABUS:

Compensation received by firemen or volunteer firemen should be fixed by council and the statutes do not contemplate council awarding a lump sum to the members of the fire department, which is in turn distributed to the members thereof.

COLUMBUS, OHIO, Aug. 17, 1925.

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

GENTLEMEN:—Your recent inquiry requesting my opinion, reads as follows:

“Section 4390 G. C. reads:

‘Council may provide for the employment of such firemen as it deems best and fix their compensation, or for the services of volunteer firemen. All firemen, other than volunteers, shall be appointed by the mayor for terms of one year, with the advice and consent of the council.’

“Section 4219 G. C. reads:

‘Council shall fix the compensation and bonds of all officers, clerks and employes in the village government, except as otherwise provided by law. All bonds shall be made with sureties subject to the approval of the mayor. The compensation so fixed shall not be increased or diminished during the term for which any officer, clerk, or employe may have been elected or appointed. Members of council may receive as compensation the sum of two dollars for each meeting not to exceed twenty-four meetings in any one year.’

“The council of the village of Covington adopted an ordinance providing for the payment of \$200.00 annually to the volunteer fire department. Such volunteer fire department in turn distributed this amount among its membership as compensation for services rendered. The bureau advised the clerk of the village that council must fix the compensation of the members of such department, and is without power to make a donation for distribution among the membership for the reason that this amounted to a delegation of authority.

“Mr. J. Guy O'Donnell, legal adviser of the village, is of the opinion that section 4390 G. C. authorizes the present method of paying a lump sum to the volunteer fire department and has asked the bureau to reconsider the matter.

“Since the question is one of general public interest, we will very much appreciate your views in relation thereto.”

Section 4219 to which you refer, specifically requires the council of the village to fix the compensation of all officers, clerks and employes in the village government.

It is a general rule, universally recognized, that funds may not be drawn from the public treasury except in pursuance to the provisions of law. Therefore, it must follow that the only manner in which employes or officers of a village may be legally paid for their services rendered to the village is by council fixing the compensation of such officers or employes, in pursuance to the provisions of the statute. There would appear to be no reason why this would not apply to volunteer firemen. Section 4390, to which you refer, expressly authorizes council to fix such compensation, and therefore it would seem that the general provisions of section 4219 would be applicable, in the absence of section 4390. However, section 4390 specifically requires the same thing as to firemen as is required of section 4319 generally.

In view of the foregoing, you are advised that compensation received by firemen or volunteer firemen should be fixed by council, and the statutes do not contemplate council awarding a lump sum to the members of the fire department, which is in turn distributed to the members thereof.

Respectfully,
C. C. CRABBE,
Attorney General.

2717.

PRISONERS CONFINED IN JAILS OF OHIO FOR FAILURE TO PAY FINE AND COSTS ARE ENTITLED TO ALLOWANCE OF ONE DOLLAR AND FIFTY CENTS PER DAY.

SYLLABUS:

Prisoners now confined in the jails of Ohio, serving out fines, are entitled to the allowance of one dollar and a half per day provided by the amendment to section 13717, General Code, after such act went into effect June 12, 1925,

COLUMBUS, OHIO, Aug. 17, 1925.

HON. L. E. HARVEY, *Prosecuting Attorney, Troy, Ohio.*

DEAR SIR:—On July 2nd I received a request from you for an opinion, as follows:

“Where a prisoner was committed to jail prior to June 13, 1925, in default of a payment of a fine and ordered to remain imprisoned until the fine and costs are paid at the rate of sixty cents per day, does section 13717 as amended, effective June 13, 1925, provide that such prisoner shall receive credit at that rate of \$1.50 per day on and after June 13, 1925?”

“Does a prisoner who was sent to jail for failure to pay a fine on June 10, 1925, receive credit at the rate of sixty cents per day or at the rate of \$1.50 per day after June 13, 1925?”

“I would appreciate receiving a prompt reply in regard to these questions, for the reason that if this law as amended applies to prisoners who were committed to jail prior to June 13, 1925, for failure to pay their fine and who are still confined, are entitled to a credit of \$1.50 per day on and