

1816.

SINKING FUND TRUSTEES—FUNDS RAISED BY TAXES LEVIED FOR SINKING FUND PURPOSES CANNOT BE DIVERTED AND USED FOR OTHER PURPOSES.

Funds raised by taxes levied for sinking fund purposes cannot be diverted and used for other purposes.

COLUMBUS, OHIO, January 26, 1921.

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

GENTLEMEN:—Acknowledgment is made of the receipt of your recent request for the opinion of this department as follows:

“In 1919 the sinking fund trustees of a municipality submitted a budget to council for sinking fund requirements in amount of \$1,148,748.00. This budget was made in strict conformity to statutes and provided for all sinking fund requirements for the year 1920. Council and the county budget commission both allowed the sinking fund budget in full. The county budget commission made a rate in mills for levy which would produce the amount of the sinking fund budgetary request based upon the tax duplicate at the time the budget commission made the allowance. After this rate had been granted and before the tax collection began for various reasons the grand duplicate increased but the rate granted was not modified and as a result the tax collection produced amounts which were turned over to the city treasurer for sinking fund purposes, \$1,305,735.85, or \$156,987.85 in excess of the sinking fund requirements and request. On the ground that the city was in stress financially and could not obtain sufficient for the other funds of the municipality and that the sinking fund had received more than they actually required, the financial officer under his own authority transferred the surplus described to the general fund to be used for general maintenance and operation expenses.

Question: Can any board or officer legally thus divert and use money raised by levy for sinking fund purposes even though the tax collection realized more than the budgetary requirements of the sinking fund?”

Section 5 of Article XII of the constitution provides that “every law imposing a tax, shall state, distinctly, the object of the same, *to which only, it shall be applied.*”

Section 4506 G. C. authorizes the creation and maintenance of sinking funds by the levy of a tax, and closes with this language:

“and the taxes so raised shall be used for no other purpose whatever.”

In view of the provisions of the constitution and the statute as above quoted, it may be stated that funds raised by taxes levied for sinking fund purposes cannot be diverted and used for other purposes.

Respectfully,
JOHN G. PRICE,
Attorney-General.