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MUNICIPAL CORPORATIONS—FINES RECEIVED UNDER SECTION 6212-19 G. C. MAY BY ORDINANCE OF COUNCIL BE APPROPRIATED FOR SUCH PURPOSES AS COUNCIL DIRECTS—TO GENERAL SAFETY AND SERVICE FUNDS—MAY CREATE FUND AND DISBURSE FROM TIME TO TIME BY ORDINANCE.

1. *Moneys received from fines by a municipality under section 6212-19 G. C., in the absence of statutory direction, may by ordinance of council be appropriated for such purposes as council may direct, and such fines, or moneys received therefor, may be apportioned to the credit of the general safety and service funds of the municipality.*

2. *Council may create a fund for the purpose alone of holding for future disbursement, the moneys received from fines under sections 6212-17 and 6212-19 G. C.; and provide for disbursements from such fund from time to time by ordinance as it may deem fit.*

COLUMBUS, OHIO, June 17, 1922.

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

GENTLEMEN:—Receipt is acknowledged of your recent communication which reads as follows:

“Section 6212 G. C., provides that:

‘Moneys received from fines and forfeited bonds shall be paid one-half into the state treasury, credited to the general revenue fund, and one-half to the treasury of the township, municipality or county, where the prosecution is held according as to whether the officer hearing the case is a township, municipal or county officer.’

Question 1. In the absence of statutory direction governing the fund into which the municipality’s portion should be paid, would it be legal for council to determine by ordinance that such fines be divided between the general, safety and service funds?

Section 3799 G. C., limits transfers among funds to those raised by taxation.

Question 2. Would it be legal for a municipality to create a fund into which such municipality’s portion of fines assessed for the violation of the Crabbe act could be paid and then transfers be authorized from such fund to such other funds as determined by council?”

Pertinent to your first question section 6212-19 G. C. provides:

“Sec. 6212-19. Money arising from fines and forfeited bonds shall be paid one-half into the state treasury credited to the general revenue fund, one-half to the treasury of the township, municipality or county where the prosecution is held, according as to whether the officer hearing the case is a township, municipal, or county officer.”

It is observed that the section quoted, clearly provides for payment into the state treasury one-half the fines received from prosecutions under section 6212-17 G. C., specifying in the instance that the same shall be credited to the general rev-

enue fund. As to the portion however of the fines to be retained by the township, municipality and county, the section is not so explicit; the language employed only going so far as to require that said fines be paid into the "treasury" of the proper authority, and without further direction as to what fund the same shall be credited. Under such circumstances therefore and in the absence of other lawful direction it may only be assumed that such monies should properly be credited to the general revenue fund of the municipality. However, it is to be noted in this connection, that section 4298 G. C. is pertinent and provides as follows:

"Sec. 4298. The treasurer shall demand and receive from the county treasurer taxes levied and assessments made and certified to the county auditor by authority of the council, and by the auditor placed on the tax list for collection, and from persons authorized to collect or required to pay them, moneys accruing to the corporation from judgments, *fin*es, *penalties*, forfeitures, licenses, and costs taxed in the mayor's or police courts, and debts due the corporation, *and he shall disburse them on the order of such person or persons as may be authorized by law or ordinance to issue orders therefor.*"

In similar vein section 4240 G. C. clearly vests in council, except as otherwise provided by law, the management and control of the property and finances of the corporation. Hence it is concluded in the absence of other lawful provision that council is lawfully authorized to provide by ordinance for the apportionment and disbursement of the city's portion of fines received under section 6212-19 G. C. and direct in the instance the purposes to which the same may be applied. Specific answer therefore to your first question is obviously in the affirmative.

Answer to your second question is thought to depend in the event upon the nature and purpose of the fund which council creates: that is to say, should council establish a fund for the sole purpose of serving as a holding fund from which future disbursements may be made at council's direction, it is believed that an affirmative answer may be given, since under such circumstances the same general result could only obtain, as if council had in the first instance directed the apportionment and disbursement of such fines. It would seem moreover that a fund created for the purpose of future disbursement could serve that purpose only by transfers or disbursements from such fund, since otherwise there would seem to be no reason or purpose for which the same might be employed. Bearing upon this question it is not believed that the provisions of section 3799 G. C. would prevent transfers or disbursements from such a fund as your second question indicates, since the purpose of the section is thought to be chiefly that of preserving the proceeds of the various funds for the accomplishment of the purpose for which the same was created. It would seem, however, that if other and definite purposes should be embraced in the establishment of such a holding fund, transfers or disbursements from this fund to others would be precluded by reason of the operation of section 3799 G. C. which prohibits the transfer of monies from one fund to another, except in cases where the proceeds of the funds accrue from the principle of taxation. Upon such considerations, therefore, it is believed an affirmative answer may be given your second question, provided the fund created by council is established merely for the purpose of future disbursements, which council may from time to time authorize by ordinance.

Respectfully,
JOHN G. PRICE,
Attorney-General.