

**Firemen's Relief Association Funds—For What Disbursed  
—Interest Credited to What Fund.**

Funds belonging to the Firemen's Relief Association of a city cannot be expended for a fire-alarm.

Accruing interest on funds belonging to Firemen's Relief Association should be credited to and added to the said fund.

R. S. Mentrum, Esq.,  
State Fire Marshal,  
· Helena, Montana.

My dear Mr. Mentrum:

You have requested an opinion from this Department as to the following questions:

First. Can the City Council lawfully expend money belonging to the Firemen's Relief Association of the city for the purchase of a fire-alarm?

Second. To what fund should the interest on the money belonging to the Firemen's Relief Association be credited?

Section 11 of Chapter 129 of the 12th Legislative Assembly, as amended by Chapter 66 of the 16th Legislative Assembly, provides that the funds belonging to the Firemen's Relief Association "shall be set aside as a special fund and may be appropriated and disbursed in the same manner as other funds belonging to the said city or association are appropriated and disbursed, but only for the following purposes, namely: (1). For the use of sick, injured and disabled firemen of any fire department of said city, and their widows and orphans; (2). For the payment of pensions, pursuant to the provisions of sections 8 and 9 of this act."

Under the provisions of Chapter 129, supra, the members of the fire department of any city adopting the privilege of forming themselves into a Fire Department Relief Association of the city, become to all intents and purposes a benefit insurance society, among the powers of which conferred by said Act is that of accumulating a fund for the purpose of payment of sick benefits to sick, injured or disabled firemen, their widows and orphans, and service pensions to retired members. This fund is created partially from licenses paid in each city under Section 4017, Revised Codes of 1907, and by tax levies under Section 3336, Revised Codes of 1907, and therefore becomes a trust fund for the sole purpose of the payment of the benefits above mentioned.

The application of the fund of a benefit society is controlled by its charter or articles of incorporation or association, and the members thereof have no power to divert the funds from the purpose to which, under such charter or articles of incorporation or association, they have been dedicated. In this Firemen's Relief Association we have a benefit association organized under the statutes of the State for two purposes only, viz., to aid the sick, injured and disabled firemen, their widows and orphans, and to pay retirement service pensions. The fund created for that purpose does not belong to the city nor to the said association, but is in the hands of the city and association officers as trustees for the State. The laws of the State providing for the organization of such associations specify the uses to which the funds may be put, and neither the City Council nor the officers or members of the association have any power to expend them for any other purposes.

I find in Section 13 of Chapter 129, supra, the sources from which the funds for these associations shall be derived:

- "1. From interest, rents, gifts, or money from other sources.
- "2. From funds received from the state of Montana.

"3. From moneys raised by taxation under section 3336 of the Revised Codes of the state of Montana."

The term "interest" used in this section can mean nothing else than the interest accruing upon the fund provided for in this Act, and plainly means that such interest shall be added to and become a part of that fund.

It is, therefore, my opinion: (1) That the City Council cannot lawfully expend the funds belonging to this Firemen's Relief Association for a fire-alarm; (2) That all interest accruing on that fund must be credited to the fund.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.