

Highways—Arterial Highways—Automobile License Taxes—Expenditures—Donations—Supervision—Elections.

“Arterial highways,” within the meaning of chapter 88, laws of 1927, defined.

County expending money on city streets forming component parts of arterial highways may not donate the funds to the city or to a special improvement district therein. The money must be expended by the county under its supervision.

County can expend a sum in excess of \$10,000 of the automobile license funds in the improvement of a single road project without a vote of the electors. In counties having a total registered vote of 15,000 or over the work must be done under the supervision of the county surveyor. Material, machinery, equipment or tools necessary to be purchased would have to be by and with the approval of the county commissioners.

Mr. J. Justin Bourquin,
County Attorney,
Butte, Montana.

April 2, 1932.

My dear Mr. Bourquin:

You have requested my opinion relative to the proposed expenditure of the county funds derived from automobile license taxes upon certain streets in the city of Butte.

Chapter 88, laws of 1927, provides that the license fees received by the county may be used by the county “for the construction, repair and maintenance of all public highways within said county, including city streets forming component parts of arterial highways within the corporate limits of cities within the boundaries of said county.”

The expression "arterial highways," in my opinion, is synonymous with what are usually known as "main roads." In every county there are certain highways or roads that are constructed and maintained for the purpose of furnishing the main avenues of travel within the county. In going from one point in the county to some relatively distant point therein these roads are intended to furnish the best route of travel either directly to the point or in that general direction so that a traveler's route would be to utilize the road that is constructed and maintained for the purpose of furnishing the best route. He may be required to utilize side roads or cross roads for a part of the distance for the purpose either of reaching the main road at the commencement of its travel or in departing from the main route to reach a destination remote therefrom.

The side roads or cross roads are more or less local in their utility and generally are constructed and maintained either for local convenience or for the purpose of offering a means of reaching the main roads. It is these main roads that constitute arterial highways within the statute for they serve as a route of travel not only to points directly on them but also to remote points in surrounding territory by means of the connecting local roads.

The statute authorizes the county to expend these particular moneys upon city streets forming "component parts" of such highways or roads. "Component" means "a part of something that by its combination affects the whole." (Standard Dictionary.) Where, therefore, part of an arterial highway lies within a city and constitutes a city street therein the street would be considered a component part of the arterial highway and the moneys could be expended upon it by the county. No street not in fact a component part of the arterial highway can be made such by any act or declaration of the city council. What streets are component parts of arterial highways is a question of fact to be determined by the county and not by the city.

The county in expending these moneys on city streets forming component parts of arterial highways may not donate the funds to the city or to a special improvement district created within the city. The money must be expended by the county under its supervision.

The question of whether the county can expend a sum in excess of \$10,000 of said funds in the improvement of a single road project without a vote of the electors is one that except for a recent decision of the supreme court would have been answered in the negative in conformity with prior opinions of this office. (Volume 10, Opinions of the Attorney General, page 162, and the authorities therein cited.)

However, in the case of *State ex rel. Diedrichs vs. Board of Trustees of Missoula County High School, et al*, decided January 22, 1932, the supreme court in the opinion states that the constitutional limitation does not apply to the expenditure of cash on hand provided for a specific purpose. The license fees which the county receives from the registration of motor vehicles is by the law to be used for the specific purpose of constructing, repairing and maintaining public highways including city streets forming component parts of arterial highways. It would appear, therefore, that this money represents cash on hand provided for

a specific purpose and under the decision last mentioned the expenditure of more than \$10,000 for a single road project would not have to be authorized by a vote of the people.

In answer to your inquiry as to whether the donation of any portion of this fund to a municipality would violate section 1 of article XIII of the constitution is unnecessary due to the fact that in my opinion no such donation can be made. However, if the law authorized such a donation it would not, in my opinion, violate the constitutional provisions mentioned for that article relates only to donations to private individuals and corporations.

In my opinion, the road work that is done on the streets forming component parts of arterial highways must be done under the supervision of the county surveyor in counties having a total registered vote of 15,000 or over as is provided for in chapter 179, laws of 1931. Any material, machinery, equipment or tools necessary to be purchased would have to be by and with the approval of the board of county commissioners.

Very truly yours,

L. A. FOOT,
Attorney General.