

Opinion No. 338.

**Counties—Cities and Towns—Streets
and Alleys—Motor Vehicles—
Registration Fees.**

HELD: Under the provisions of
Section 1760, R. C. M. 1935, it is with-
in the discretion of the county com-

missioners to determine what proportion of the net fees derived from the registration of motor vehicles shall be used for city streets of cities of less than 35,000 population.

August 8, 1936.

Mr. W. M. Black
County Attorney
Shelby, Montana

You have requested my opinion as to whether under the proper construction of Subdivisions (a), (b) and (c), Section 1760 R. C. M. 1935, the City of Shelby, having a population of about 2,500, is entitled to a percentage of the license fees received for motor vehicles for use on city streets.

Subdivision (a) of this section provides that 50% of the net fees derived from the registration of motor vehicles the owners of which reside within the boundary of any incorporated city having a population of 35,000 or more, shall be held by the County Treasurer and segregated from other county road funds, and be designated as "City Road Funds", to be used in the city from which fees are derived for the construction of permanent streets within the incorporated limits of such cities.

Subdivision (b) provides the manner in which such "City Road Fund" shall be spent in such cities. Subdivision (c) reads: "The net fees derived from the registration of motor vehicles shall be by the registrar of motor vehicles transmitted to, and paid over to the county treasurer of the county from which the registration fee came, such fees excepting apportionment to city road fund, to be used by said county for the construction, repair and maintenance of all public highways, except state and federal highways, within the boundaries of said county, including city streets forming component parts of arterial highways within the corporate cities of less population than thirty-five thousand (35,000) according to the federal census of 1930, within the boundaries of said county. * * *"

We are unable to find any language in this section from which, in my opinion, it could be reasonably inferred that cities under 35,000 in pop-

ulation are entitled to any percentage of the fees derived from the registration of motor vehicles. Rather, this section expressly provides that such fees (except such as are apportioned to "City Road Fund" as provided in Subdivision (a) and Subdivision (b) thereof for use of cities of 35,000 or more) are to be used by the county for the construction, repair and maintenance of all public highways, except state and federal highways within the boundaries of the county, including city streets forming component parts of arterial highways within the corporate cities of less population than 35,000.

We can only conclude from this language that it is within the sound discretion of the County Commissioners to determine what proportion of such fees shall be used for city streets of cities of less than 35,000 population. No other interpretation of this section seems permissible.