

No. 157

**MOTOR VEHICLES—COUNTIES—REFUNDS OF FEES
COLLECTED FROM TITLE APPLICATIONS**

Held: A refund from the state to a county of fees collected for title applications for motor vehicles should be placed to the credit of the road fund and disposition made thereof in conformity with the provisions of Section 1760, Revised Codes of Montana, 1935, as amended by Chapter 125, Laws of 1939.

July 1, 1941.

Board of County Commissioners
Silver Bow County Courthouse
Butte, Montana

ATTENTION: Mr. Joe F. O'Donnell

Gentlemen:

You have submitted the following question:

"Silver Bow County has received from the State of Montana a refund of fees collected for the registration of new and out of state cars in Montana. This fee is not a motor vehicle license fee, but rather a title application fee. I would, therefore, like to have your opinion whether this money must necessarily become road fund money or whether the Board of County Commissioners may designate it for some other county fund."

Section 1758.4, as amended by the provisions of Chapter 72, Laws of 1937, provides:

"A charge of one (\$1.00) dollar shall be made for issuance of an original certificate of ownership of title which shall be collected by the county treasurer for the registrar of motor vehicles the first time any vehicle is registered by any owner. Said charge of one (\$1.00) dollar shall be remitted to the registrar of motor vehicles by the county treasurer with each application for registration. Upon a transfer of registration by the owner, there shall be forwarded to the registrar of motor vehicles, the certificate of ownership or title and registration card, properly filled out and executed, together with a transfer fee of one dollar (\$1.00)."

Section 1760, as amended by the provisions of Chapter 125, Laws of 1939, insofar as pertinent here, provides:

"All license or registration fees collected by the county treasurer of the county in which any motor vehicle is registered shall be credited to the motor vehicle license fund of said county. The cost of making and shipping license plates and identification marks, certificates and other expenses of operating the motor vehicles department of the State of Montana shall be pro rated by the registrar of motor vehicles among the counties of the state in proportion to the number of cars registered in each county, and he shall bill each county therefor, by verified claim, and each county shall thereupon pay the amount so charged out of said motor vehicle fund; provided, however, that each county shall receive credit for its pro rata share of any fees or license money paid to the registrar of motor vehicles. The remainder of the funds in said motor vehicle license fund shall be used as follows:

"(c) 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 . . .”

Thus it can be seen that, under the provisions of said Section 1758.4, a charge of \$1.00 shall be made for the issuance of an original certificate and a charge of \$1.00 for each certificate issued thereafter. The charge in each case is a part of the registration fee, as contemplated under the provisions of said Section 1760 aforesaid, and all license and registration fees collected by the county treasurer of the county in which any motor vehicle is registered shall be credited to the motor vehicle license fund of said county. The remainder in said motor vehicle fund is to be used in accordance with the provisions of said Section 1760, subdivision (c), hereinabove set out.

Therefore, it is my opinion a refund from the state to a county of fees collected for title applications for motor vehicles should be placed to the credit of the road fund and disposition made thereof in conformity with the provisions of Section 1760, as amended by Chapter 125, Laws of 1939.

Sincerely yours,

JOHN W. BONNER
Attorney General