

*Birmingham  
Barrett  
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November 3, 1954  
Letter Opinion  
No. 54-246-L

**LAW LIBRARY  
ARIZONA ATTORNEY GENERAL**

Mr. A. E. Gomes  
Purchasing Agent  
Arizona State Prison  
P. O. Box B  
Florence, Arizona

Re: Laws 1953, Chapter 41

Dear Mr. Gomes:

Pursuant to the authority of Article 4, pt. 2, Section 20 of the Arizona Constitution, the Arizona Legislature in 1953 enacted Laws 1953, Chapter 41, which provides in part as follows:

"PROVIDING FOR PARTICIPATION BY THE STATE PRISON IN THE CONSTRUCTION OF A SEWAGE DISPOSAL SYSTEM AND MAKING AN APPROPRIATION THEREFOR.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of thirty-three thousand two hundred forty-four dollars and forty-four cents is appropriated to the state prison.

Sec. 2. PURPOSE. The purpose of the appropriation made in section 1 is to permit the state of Arizona for the Arizona state prison to pay approximately sixty-one per cent of the cost of a sewage disposal system to be constructed jointly by the Arizona state prison and the town of Florence. The governor is hereby authorized to enter into a contract on behalf of the state with the town of Florence, which shall provide for the construction of such disposal system, the payment of a portion of the cost thereof not exceeding the amount herein appropriated, the respective interests of the parties in the completed plant, the contributions of the parties to the maintenance and operation thereof and such other matters as may be appropriate to carry out the purpose hereof."

It is well settled by the courts that in the interpretation of any statute, the legislative will is the all-important and controlling factor. Accordingly, the primary rule of construction of statutes is to ascertain the intent of the legislature. 50 Am. Jur. 201, Statutes, Section 223.

The purpose for which the statute is enacted is of primary importance in the interpretation thereof. Thus, in the interpretation of a statute of doubtful meaning, it is imperative to consider its purpose, objective, aim or motive. 50 Am. Jur. 283, Statutes, Section 303.

50 Am. Jur. Statutes, 303, reads in part as follows:

\* \* \* \* \*

"It has been declared that a statute is generally animated by one general purpose, and that such purpose would be given effect even if it be necessary, in so doing, to restrict somewhat the force of subsidiary provisions that otherwise would conflict with the paramount intent. \* \* \* Under these rules, a construction should be avoided which would operate to impair, pervert, frustrate, thwart, nullify, or defeat the object of the statute. \* \* \*"

\* \* \* \* \*

A reading of Laws 1953, Chapter 41, reveals the one general purpose, aim or objective of that enactment is to appropriate the sum of Thirty-three thousand, two hundred forty-four dollars and forty-four cents (\$33,244.44) for the purpose of paying a portion of the cost of a sewage disposal system.

A further study of the language of the Laws 1953, Chapter 41, displays that the Legislature did not know, nor did it intend, that this appropriation should constitute exactly sixty-one per cent (61%) of the cost to the state for the construction of the system. The word "approximately" used before the phrase "sixty-one per cent of the cost of a sewage disposal system" clearly manifests an intention by the legislature that the appropriation was to constitute an estimate and not an absolute percentage of the cost. STOCKBURGER vs. BROOKER, 33 Ga. App. 676, 127 S.E. 663; TEXAS EMPLOYERS INSURANCE ASSOCIATION vs. FITSGERALD, Tex. Civ. App. 292, S.W. 925; SANDBERG vs. MARGOLD REALTY CORP. 247 N.Y. 139, 231 App. Div. 241.

Therefore, notwithstanding the fact that the cost to the state for the construction of the sewage disposal system is sixty-one and one-half per cent (61 1/2%) of the total potential cost of the system, expenditures are authorized and may be incurred so long as the total expenditures do not exceed the sum of \$33,244.44 made available under the terms of Laws 1953, Chapter 41, Section 10-923, A.C.A. 1939, as amended.

Mr. A. E. Gomes  
Purchasing Agent

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We hope the above information will be of assistance to you.

Very truly yours,

WILLIAM T. BIRMINGHAM  
Assistant to the  
Attorney General

WTB:vlh

cc: Mr. Robert W. Taylor  
State Auditor's Office  
Capitol Building

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