

February 16, 1959

Honorable J. J. Glancy
State Representative
Twenty-fourth Legislature
Capitol Building
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Sir:

You request the Attorney General for an opinion upon the following questions, which we state and answer as follows:

Question 1. May the County Board of Supervisors legally expend public funds for the purpose of obtaining property damage and public liability insurance for county employees while driving county owned automobiles, or while driving non county owned automobiles, on official business?

The answer is "Yes".

A.R.S. § 11-261, Laws 1956, Ch. 29, CH&O § 1, effective July 14, 1956, provides as follows:

" Counties may expend public funds to procure liability insurance covering their officers, agents, and employees while employed in governmental or proprietary capacities."

Question 2. May the County Board of Supervisors legally expend public funds to obtain liability insurance for the protection of sheriffs and deputies for accidental injuries to persons or property while performing a legal act in the performance of their official duties?

The answer is "Yes". This answer is predicated upon the above-quoted statute.

Question 3. May the County Board of Supervisors legally expend public funds to obtain liability

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insurance for the protection of sheriffs and their deputies in civil suits involving false arrest, false imprisonment, and malicious prosecution?

The answer is "Yes". This answer is predicated upon the above-quoted statute.

Question 4. In the event the County Board of Supervisors can legally expend public funds to obtain liability insurance as listed in No.'s 1, 2 and 3, however has not chosen to do so, then is the County which has not procured liability insurance covering their employees while performing official acts, legally liable for the cost of civil suits and damages against the county employee?

The answer is "No". Counties are not liable for costs of civil actions. A.R.S. §§ 12-345 and 12-825.

A county is not liable for damages obtained against a county employee, arising from the performance of an official act. The State is immune from liability for the acts of negligence by its agents arising out of governmental activities. This rule applies to municipal subdivisions of the State, including counties. See: City of Phoenix v. Lane, 76 Ariz. 240, 263 P.2d 302.

Question 5. May the common councils of the various Arizona municipalities legally expend public funds to obtain the liability insurance as listed in No.'s 1, 2 and 3 above?

The answer is "Yes". A.R.S. § 9-497, Laws 1956, Ch. 28, § 1, effective July 14, 1956, reads as follows:

" Cities and towns may expend public funds to procure liability insurance covering their officers, agents, and employees while employed in governmental or proprietary capacities."

Question 6. In the event the City Council can legally expend public funds to obtain liability insurance as listed in No.'s 1, 2 and 3, however has not chosen to do so, then is the City which has not procured liability insurance covering their employees while performing official acts, legally liable for the cost of civil suits and damages against the city employee.

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The answer is "No". This answer is controlled by the
answer to your Question 4 above.

Respectfully yours,

WADE CHURCH
The Attorney General

LESLIE C. HARDY
Chief Assistant
Attorney General

LCH/lw