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DEPARTMENT OF LAW LETTER OPINION NO. 66-28-L (R-101)

REQUESTED BY: GREG O. HATHAWAY
Superintendent,
Arizona Highway Patrol

QUESTION: May personal property belonging to the Highway Patrol, when such property has been determined by the Highway Patrol to be obsolete, worn out or otherwise useless for Highway Patrol purposes, be disposed of by auction sale with the proceeds of such sales then being deposited into the Arizona Highway Patrol Fund?

ANSWER: See body of Opinion.

The general procedure for disposal of personal property belonging to the State or any of its departments or agencies, which property is worn out or otherwise useless to the State, is provided in A.R.S. § 41-561, as amended 1966. The procedure therein provides for the condemnation, publication of sale, sale and depositing of the proceeds of the sale into the State's General Fund, or for authorization to trade the property on new equipment. Section (E) of A.R.S. § 41-561, as amended 1966, provides that:

"Except as provided in this article personal property of the state, its

Opinion No. 66-28-L
(R-101)
July 20, 1966
Page Two

departments or agencies shall not be sold, exchanged or disposed of."
(Emphasis supplied).

While the statute provides the exclusive method for disposing of personal property belonging to the State or any of its departments or agencies, it does not provide the exclusive method of depositing the receipts of such disposal or sale.

A.R.S. § 18-191(B)(6) provides:

"B. The Arizona Highway Patrol Fund shall consist of:

6. Receipts from the sale or disposal of any or all property held by the Arizona highway patrol or purchased with Arizona highway patrol funds."

Paragraph (E) of § 18-191 provides:

"E. The Arizona highway patrol fund shall be used for the purpose of administering the provisions of law relating to the highway patrol and the Arizona highway patrol reserve and all matters pertaining thereto."

Insofar as the provisions of a special statute deal with the same subject and are inconsistent with the provisions of a general statute on the same subject, the special statute controls, but the general statute remains applicable to all matters not dealt with in the specific statute. Desert Waters, Inc. v. Superior Court, 91 Ariz. 163, 370 P.2d 652.

Opinion No. 66-28-L
(R-101)
July 20, 1966
Page Three

When A.R.S. §§ 41-561 and 18-191(B)(6) are examined together, it becomes apparent that the legislature intended all highway patrol funds, including receipts from the sale or disposal of any and all property held by the Arizona Highway Patrol, to be used exclusively for highway patrol purposes. The legislature did not, however, provide a special procedure by which the sale should be conducted other than that provided in A.R.S. § 41-561.

Therefore, it may be concluded that personal property belonging to the highway patrol, which property has been determined by the highway patrol to be obsolete, worn out or otherwise useless for highway patrol purposes, may be disposed of by auction sale, or otherwise, as provided in A.R.S. § 41-561. However, under the provisions of A.R.S. § 18-191(B)(6), the receipts of such sale must be deposited in the Highway Patrol Fund rather than in the State's General Fund.

Respectfully submitted,


DARRELL F. SMITH
The Attorney General

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