

January 17, 1939.

Mr. H. L. Russell,
County Attorney of Coconino County,
Flagstaff, Arizona.

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Mr. Russell:

We are in receipt of your communication of January 12 in which you request an opinion as to whether or not it will be proper for the county assessor of your county to expend approximately \$800.00 of the funds set up for the administration of the motor vehicle laws, such fund consisting of fifty cents of each original registration fee collected by said assessor for and on behalf of the State Motor Vehicle Division, for the following purposes: (1) purchase of linoleum for quarters where the work of handling automobile license plates is conducted; (2) the purchase of a new automobile for the use of the assessor.

Section 1672, Revised Code of 1928, set up said fund declaring same to be under the control and for the exclusive use of the assessor in carrying out the provisions of the act. Section 1672 was amended by Session Laws of 1931, Chapter 100, and later again amended by L. '31-2, 1st S.S. c. 1, Sec. 1 thereof. The 1937 legislature enacted Chapter 67 relating to the Motor Vehicle Division and amending various sections of the code. Section 1672 is amended by Chapter 67, Session Laws of 1937, and as so amended, all reference to the assessor therein is eliminated. However, in the amendment by that act of Section 1629, Subsection (f) of said Section 1629 is made to read as follows:

"The assessor of each county is constituted an agent of the division for the performance of acts and duties delegated to him, and the offices maintained by such county assessors are constituted county offices of the division. Fifty cents of each original registration fee shall be remitted to the county treasurer of the county in which such registration fee is collected, and placed in a special fund for the use of the assessor in carrying out the duties imposed upon him by this act. Claims against said fund shall be allowed and paid in the same manner as claims against the county are allowed and paid. The board of supervisors may order the transfer of all or any unexpended part of said fund received during a previous fiscal year into the fund for the maintenance and construction of county highways.

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All moneys received from the taxes herein imposed, except the portion retained for the assessor's special fund, shall be immediately transferred by the collecting officer to the superintendent, and by him to the state treasurer, who shall credit the same to the state highway fund."

Under Subsection (f) of Section 1629 as so amended, fifty cents of each original registration fee is required to be remitted to the county treasurer of the county in which the registration fee is collected and placed in a special fund "for the use of the assessor in carrying out the duties imposed upon him by said act." Furthermore, it is provided that claims against said fund shall be allowed and paid in the same manner as claims against the county are allowed and paid. From this latter provision it would follow that the Board of Supervisors has a right to pass upon any claims against said fund under the same procedure as governs ordinary claims against the county. In our opinion the Board of Supervisors, in passing upon such claims, should not approve the same unless the expenditure represented strictly a cost of the administration of said act, that is, Chapter 67, Session Laws of 1937. The sole and only purpose for which the fund may be expended is the administration of said act, and anything which may be considered as reasonably necessary and proper for the assessor to do in the administration of said act may be paid for out of said fund, but anything, no matter how desirable in itself, which is not reasonably to be classed as a cost of administration, is not permissible. Any expenditures which are reasonably necessary to enforce the provisions of said act and without which it could not be carried on to effect are properly classed under the head of administration. The status of any special fund set up for the purpose of administering a particular act, such fund arising out of revenues collected under the act, is fully discussed by our Supreme Court in the case of Webb v. Frohmiller, 79 P. (2d) 510 (Ariz.), and general principles regarding the expenditures from such a special fund are there enunciated by the Supreme Court. That case supports our views as set forth in the first part of this paragraph.

It follows that in the situation mentioned by you in your letter it would be for the Board of Supervisors to determine whether or not the assessor's claims against said fund were reasonably necessary and proper to enforce and carry out the provisions of Chapter 67, Session Laws of 1937. Unless the facts support such a conclusion, the claim should be disallowed. For example, if the automobile

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is to be used by the assessor for the general purposes of his office, including the assessment of property, rather than having some direct and more or less exclusive connection with the administration of the Motor Vehicle Department act, the expenditure would not be proper. The same question would arise for determination with reference to the purchase of the linoleum.

Trusting this opinion may be of some assistance in the matter, we are

Very truly yours,

JOE CONWAY,
Attorney General.

LIN ORME,
Assistant Attorney General.

EARL ANDERSON
Special Assistant
Attorney General.