

OPINION
53-51

September 15, 1953(OPINION)

HIGHWAYS

RE: Distribution of Tax to Municipalities

You have written requesting our opinion of chapter 179 of the 1953 session laws which deals with the allocation to the cities and village of the county of twenty percent of such funds as shall have been paid into the county for highway purposes.

In an opinion, dated August 5, 1953, to Mr. C.J. Schauss, State's Attorney of Morton County, this office interpreted certain portions of this chapter, and for that reason will in this opinion simply enlarge upon what we said in that instance.

Briefly, the chapter provides:

1. Of the proceeds of the tax collected on city or village property twenty percent shall be turned over to the city treasurer to be used for the improvement of city streets and highways.
2. The balance of the tax shall be kept in the county road fund, to be used in the improvement of highways as directed by the board of county commissioners.
3. This tax is in addition to other taxes levied and collected for highway purposes.

The question now before us deals with the last sentence in the chapter which provides "The provisions of this section in regard to allocation shall apply to the proceeds of any tax originally levied for other purposes if appropriated or transferred to the county road fund or for expenditure for road and bridge purposes".

We agree with your contention that the allocation of the fund applies to both the county road fund and the county bridge fund.

It is further our opinion that the chapter applies to previous years' taxes, that is prior to 1953, if the proceeds of any such tax originally levied have been designated for or transferred to the county road fund or for expenditure for road and bridge purposes.

The allocation provision in the chapter does not, of course, apply to cities and village of taxes due prior to 1953.

We believe that the legislature intended that any tax money designated to be used for the improvement of roads and bridges comes under the provisions of this chapter.

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Attorney General