

**OPINION
53-52**

June 17, 1953 (OPINION)

HIGHWAYS

RE: Funds for Purchase of Road Machinery

Yours of June 12, requesting our opinion as to which county road fund may be used for the purchase of road building and maintenance machinery has been received.

Chapter 24-05, relating to county roads provides for a special levy, the proceed of which shall be "expended only for road machinery and for grading, ---."

This would appear to be the proper fund for the purchase of road machinery. Section 24-0504 of this chapter was amended by chapter 177, Laws of 1951.

Section 57-1506 (3) fixes the limitation of the "levy for general and special county purposes, including taxes levied for road and bridge purposes".

It is our opinion that funds from this levy may be used for any road or bridge purpose, including the purchase of road machinery. The levy authorized by section 24-0501 must be within the limitation provided by section 57-1506.

Section 57-1522 provides for a levy for road and bridge purposes in unorganized townships. It is our opinion that the fund from this levy must be used only in the unorganized township from which the tax money is derived. However, if road machinery of the county is used to construct or maintain roads in such unorganized township, it should pay its proportionate share of the cost of the machinery, and the commissioners would be authorized to use such proportionate share from this fund for a contribution toward the cost of road machinery purchased and used in the township.

It is our opinion that funds paid to the county under section 57-4118, which are to "be used for the construction, improvement, and maintenance of highways, ***", may be used for the purpose of such construction, and maintenance. Surely such work cannot be done without proper machinery, and the machinery must be provided before any of such work can be done. The same construction applies to the funds received by the county under section 57-4113.

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