
August 23, 1933.

Hon. T. A. Dicus,
Chairman, State Highway Commission of Indiana,
State House Annex,
Indianapolis, Indiana.

Dear Mr. Dicus:

This will acknowledge receipt of your letter of August 18, in which you request an opinion as to the proper disposition of funds remaining in the motor vehicle account as provided by chapter 287 of the Acts of the Indiana General Assembly of 1935.

In reply to this inquiry it will be noted that chapter 287, above referred to, provides generally for the regulation of those operating motor carriers of persons or property for hire upon the highways of this state. The Public Service Commission of Indiana is given authority to enforce these regulations and laws governing the movement of such motor vehicles, and provides the fees which the applicant shall pay to the public service commission for the registration of motor vehicles covered by the Act and the permits issued by the public service commission under its provision. Section 38 of the Act then provides:

“(a) All fees herein prescribed shall be paid into the treasury of the state through the secretary of the commission and quietused into an account to be known as the 'motor vehicle account' of the general fund.

“(b) For the purpose of carrying out and administering the provisions of this Act, there is hereby appropriated annually out of any money in such motor vehicle account of the general fund of the state treasury not otherwise appropriated, a sum sufficient for the administration of this Act, and any other monies remaining to the credit of such motor vehicle act account is hereby appropriated for operating expense of the Indiana state police for the purpose of enforcing the provisions of this Act and regulating vehicle traffic. Provided, however, That the appropriation made for the Indiana state police shall be reduced by the amount transferred hereunder.”
Your attention is further directed to section 1, subsection (a), chapter 135 of the Acts of the Indiana General Assembly of 1937, which creates a motor vehicle highway account and reads as follows:

"(a) The term 'motor vehicle highway account' means the account of the general fund of the state known as the 'motor vehicle highway account' to which is credited collections from motor vehicle fuel license fees, registration fees, transfer fees, drivers' and chauffeurs' license fees, weight taxes, certificate of title fees designated auto theft fund and any other taxes or fees placed in said account by law, which are imposed on or on account of motor vehicle or motor vehicle transportation."

The question therefore presented is whether or not there now exists two accounts, the one designated "motor vehicle account" as provided by section 38 of chapter 287 of the Acts of the Indiana General Assembly of 1935, and the other designated "motor vehicle highway account" as provided by chapter 135 of the Acts of the Indiana General Assembly of 1937.

It was the evident intention and purpose of the 1937 Legislature in passing chapter 135 to include in the motor vehicle highway account all license fees and other special taxes imposed upon or on account of motor vehicles and motor vehicle transportation. In fact, the title of the Act reads as follows:

"An Act concerning the distribution and use of funds collected and paid into the motor vehicle highway account from and through the taxation of and imposition of license fees and other taxes upon or on account of motor vehicles and motor vehicle transportation."

The Act specifically provides that motor vehicle fuel license fees, registration fees, transfer fees, drivers' and chauffeurs' license fees, weight taxes, certificate of title fees, and any other taxes or fees placed in said account by law which are imposed on or on account of motor vehicles or motor vehicle transportation shall constitute the "motor vehicle highway account."

The registration fees above noted are clearly sufficiently broad and inclusive to cover the registration fees provided for in chapter 287 of the Acts of the Indiana General Assembly of 1935. The only question therefore remaining is whether or
not filing fees and other fees prescribed by said chapter are also included in the 1937 Act.

It is my opinion that it was the intention of the Legislature in setting up the motor vehicle highway account to include therein all special taxes or fees of every kind and character which are imposed on or on account of motor vehicles or motor vehicle transportation. Indeed, I can see no purpose in maintaining a separate motor vehicle account into which should be paid only the filing fees that are required by the provisions of chapter 287 of the Acts of the Indiana General Assembly of 1935.

I am further confirmed in this opinion by the fact that section 38 of the 1935 Act, above referred to, provides that after the payment of the expenses of administering said Act "any other monies remaining to the credit of such motor vehicle act account is hereby appropriated for operating expense of the Indiana state police for the purpose of enforcing the provisions of this Act and regulating vehicle traffic: Provided, however, That the appropriation made for the Indiana state police shall be reduced by the amount transferred hereunder."

The general Appropriation Act of 1937, being chapter 114 of the Acts of the Indiana General Assembly of 1937, appropriates certain monies for the Indiana state police, and then provides that:

"Provided, That the amounts expended from the appropriation herein made for the Indiana state police shall be paid and deducted from the motor vehicle highway account, as provided in the act creating such account, on and after January 1, 1938."

It is evident from the provisions of these two Acts that if the motor vehicle account is still to be maintained, as provided by the 1935 Act, the balance remaining to the credit of such account shall be expended for the operation of the Indiana State Police Department, and any appropriation made for the Indiana state police shall be reduced by such amount. If this were accordingly done the motor vehicle highway account would not be required to pay the appropriation to the Indiana state police except as to the balance needed after the motor vehicle account was exhausted.

It is my opinion, therefore, that the provisions of chapter 135 of the Acts of the Indiana General Assembly of 1937 are
sufficiently broad to include the motor vehicle account and that accordingly all fees and charges imposed by chapter 287 of the Acts of the Indiana General Assembly of 1935 and remaining in said account after the payment of the costs of administering said Act, should be transferred to the motor vehicle highway account and distributed as provided by chapter 135 of the Acts of 1937.

ELECTION OF COMMISSIONER, STATE: Elections. Right of voters in abandoned township to vote.

August 29, 1938.

Indiana State Board of Election Commissioners,
204 Castle Hall Building,
Indianapolis, Indiana.

Gentlemen:

This will acknowledge receipt of your letter of August 25, in which you submit the question as to the procedure to be followed in the coming election in cases where townships have been abolished and township boundary lines changed. You inquire as to the right of those voters who have resided in the townships which have been abolished to vote in the new townships to which new territory has been added.

In reply to this question, your attention is first directed to section 29-803, which reads as follows:

"The board of commissioners of any county may change the boundaries of any precinct within such county, or divide any precinct into two (2) or more precincts, or consolidate two (2) or more precincts into one (1), or change any place of holding elections whenever public convenience or the public good may require it: Provided, That no such change, division or consolidation shall be made after the June term of such commissioner's court next preceding an election: And, provided further, That no such change, division or consolidation shall be valid without giving due notice, at least one (1) month before any election, by one (1) publication in two (2) newspapers published in said county, representing the two (2) political parties which