

June 12, 1962



Honorable John M. Dalton
Governor of Missouri
Executive Office
Jefferson City, Missouri

Dear Governor Dalton:

On May 16, 1962, you requested an informal opinion from this office concerning an interpretation of the recently enacted Constitutional Amendment, Article IV, Section 30 (a) (b).

By way of background, this new gas tax amendment provides for the apportionment of gas tax revenue between the state, counties and cities. After certain specified deductions, the remaining net proceeds are distributed with 5% going to the credit of the counties, 15% allocated to the certain incorporated cities, towns and villages, while the remaining net proceeds go to the state. With reference to the 15% to be shared in by the cities, Section 30 (a) (2) states that the money is to be used:

"* * * solely for construction, reconstruction, maintenance, repair, policing, signing, lighting and cleaning roads and streets and for the payment of principal and interest on indebtedness incurred prior to the effective date of this section on account of road and street purposes, and the use thereof being subject to such other provisions and restrictions as provided by law * * *."

In your letter of May 16, 1962, you ask the following questions:

1. May a municipality issue revenue bonds payable from the municipality's share of the proceeds of the tax?

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2. May funds payable to municipalities be used as matching funds to augment payments by abutting property owners in a street construction program?

The answer to your first question is in the negative. The gas tax amendment does not grant to cities the power to issue bonds of the nature described by you, and we find no other constitutional or statutory provision which authorizes cities to issue such bonds.

Respecting your second question, the gas tax amendment enumerates certain "purposes" for which municipalities are limited in spending allotted gas tax revenues. As long as the money is being spent for one of the specified "purposes," then the intent of the amendment is being fulfilled. Street construction is an enumerated "purpose" and gas tax money can be spent in its attainment. When the money is received by municipalities, it becomes "earmarked" general revenue. If a particular municipality has authority to pay the cost of street construction in whole or in part out of its general revenue funds, then in such circumstances and to the same extent gas tax money can be spent for this purpose.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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