

Parking Meter Funds Expenditures for City and Town Street Purposes

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We have come a long way since the advent of mechanical devices called "Parking Meters", in the State of Indiana. The first installations in Indiana cities met strong opposition from many citizens and business men alike. It was believed by many that city or town officials had no authority to provide parking space on streets and regulate parking of vehicles in that space by charging a fee and then to extend such regulation to the streets and curbs along business properties or residences. It was true that there was no law covering those first installations of parking meters but when those opposed carried their objections to the courts, the courts ruled in effect that the City Council or Town Board had the power by ordinance to regulate and control traffic and that the parking meter and its fee was a means of traffic control.

The success of these earlier installations of parking meters resulted in the enacting of laws specifically authorizing parking meters, creating a separate fund for the revenues, and defining the expenditures which could be made from such revenues.

The first of these laws was enacted in 1945—(Chapter 236, Acts 1945) which applied to second, third and fourth class cities only.

This law authorized the following expenditures from parking meter revenues:

(a) "For the payment of the purchase-price, rental fees and cost of installation of such parking mechanical devices."

(b) "For the payment of the cost of maintenance, operation, repair and all other incidental costs and expenses in the operation of said mechanical parking devices. Included in said incidental costs and expenses shall be the cost of clerk and bookkeeping expenses in the handling and keeping of records of all fees so collected and expended."

(c) "For the payment of the cost of traffic signal devices used in said cities and also repair and maintenance of any of the public

streets and highways where said mechanical parking devices are in use, and all streets connected therewith in said city."

Under the provisions of this 1945 law, expenditures could be made by the Board of Works without appropriation and any fund balance at the close of the calendar year can be transferred by ordinance at the end of the year to the city general fund.

I know you are interested in the expenditures which may be made from these funds for street purposes, however I would like first to call attention to other laws and also some changes in this 1945 Act.

This 1945 Act was amended in 1951 (Chapter 303, Acts 1951) to provide for the following additional expenditures from the fund:

(d) "For the purpose of acquiring by lease or purchase suitable land for off-street parking purposes; for the improvement and maintenance of such land for parking purposes; and for the purchase, installation and maintenance of mechanical parking devices on such land."

This 1951 amendment also provides that any authorized expenditure can be made "after an appropriation therefor by the common council, which said appropriation is not subject to review by the tax adjustment board or the State Board of Tax Commissioners."

Up to now I have discussed the law applying to second, third and fourth classes.

In 1949 a parking meter law was enacted (Chapter 23, Acts 1949) which applies to fifth class cities and towns.

This law is identical with the original 1945 law applying to second, third and fourth class cities, as to expenditures, however *it has not been* amended to provide for lease or purchase of land for off-street parking and contains no such provision.

It does provide "for the payment of the cost of traffic signal devices used in said cities or towns and also repair and maintenance of any of the public streets and highways where said mechanical parking devices are in use, and all streets connected therewith in said city or town."

This 1949 Act also provides that expenditures may be made without appropriation therefor.

Now, confining our attention to expenditures for street purposes in cities and towns (excepting first class) in view of these two laws we find that in second, third and fourth class cities an appropriation must first be made by the council, and inasmuch as the regular budget procedure is not required, we believe the council could appropriate for an authorized expenditure at any time funds are available. Such appropriation to be made by ordinance.

In fifth class cities and towns no appropriation is required for expenditures for authorized purposes. All that is necessary is that funds be available.

The amount to be expended from parking meter funds for street purposes must be determined by the Board of Works or Town Trustees, and will depend on what other authorized expenditures may obligate the parking meter funds.

For what purposes may we expend parking meter money in connection with streets?

(First) It is believed the law provides that funds may be expended for traffic signal devices, such as "Stop and Go" lights, caution lights and signals or signs directing traffic, traffic lines and parking lines on streets, "No Parking" signs and "Stop" signs for preferential streets.

(Second) Funds may be expended for repair and maintenance of certain streets. *Not construction, but repair and maintenance only.* This would appear to mean the same expenditure for repair and maintenance which you can now make from Gas Tax Funds, such as materials, labor, tools and possibly equipment, if necessary for repair and maintenance; however it is believed the provision for use of these funds for street repair and maintenance was to supplement the Gas Tax and Street Tax levies for the ordinary expense and *not for the purpose of purchasing heavy equipment.* Such equipment would be used on all streets in the City or Town, while the use of parking meter funds for street purposes is limited to *certain streets.* That is, "streets where parking meters are in use and all streets connected therewith". We believe this to mean, that the street where parking meters are installed may be repaired or maintained only on that part where the meters are in use, and streets connecting with that part of a street where meters are in use may also be repaired and maintained.

Many questions have been received by our office as to whether or not certain kinds of equipment and services may be purchased from parking meter funds—many of these would cause a stretch of the imagination to agree that they were proper items of expenditures from such funds. The point I wish to emphasize is that we should follow the law. These inquiries were questionable in the official's own mind or no inquiry would have been made.

In connection with the Purchases from Parking meter funds for street purposes or for any other purposes, the purchase law and public works contract laws will apply.

The materials, supplies and equipment purchase law of 1945, which we commonly call the "\$500" law, was amended in 1953 and raised the limit to a \$1,000 purchase which can be made without advertising. The 1953 amendment also recognized the previous difficulty had with the old \$500 law in that the purchase on the open market without advertising, prohibits the purchase of a value of more than \$1,000 under two or more contracts. In other words, the law prohibits the purchase of materials or equipment costing \$2,500 on the open market and then paying for it in three payments, two for \$999 each and one for \$502. Such practice was followed under the old law by paying for purchases in \$495 or \$499 installments. The method used was obvious. This 1953 law stops this practice. (Chapter 99, Acts 1945 as amended by Chapter 32, Acts 1953) effective February 24, 1953.

This law, strictly speaking, applies to parking meter funds in all cities to and including fourth class only. It does not apply to fifth class cities and towns. The reason being that the law applies to budgeted funds and parking meter funds are required to be appropriated in first to fourth class only and not in fifth class and towns. As good public policy we recommend the law be followed in fifth class cities and towns, also.

The Public Works law (Chapter 136, Acts 1949) would apply if street work is to be done under contract where cost of materials and labor was \$2,000 or more. This would apply to all cities and towns regardless of whether or not appropriation was necessary.

It may be interesting to note that the 1953 general assembly enacted another law in connection with parking meter funds and it may provide for an additional expenditure from parking meter funds in your city or town.

Chapter 140, Acts 1953 effective March 11, 1953 provides that in fourth and fifth class cities and in towns the city or town Clerk-Treasurer may receive such additional compensation as shall be fixed by the common council or town board of trustees for keeping records and handling parking meter fees collected and expended. This compensation to be in addition to all other compensation received by such Clerk-Treasurer and shall be paid out of parking meter funds. In fourth class cities an appropriation would be required. In fifth class cities and towns no appropriation is now required.

There are other so-called parking meter laws applying to first, second, third and fourth class cities, but these do not provide for any expenditures for Street Repair or Maintenance. The primary purpose is to provide facilities for on or off-street parking and further

provides for the installation of parking meters and the collection of fees—(Chapter 170, Acts 1951 applies to second, third and fourth class and amends Chapter 288, Acts 1947) (Chapter 237, Acts 1945 and Chapter 261, Acts 1949 apply to first class cities).

To summarize—

Second, third, fourth and fifth class cities and towns may expend parking meter funds for street signal devices, repair and maintenance of streets.

Second, third and fourth class must have funds appropriated.

Fifth class and towns need no appropriation.

All cities and towns should follow the purchase and public works laws governing the advertising for bids where the cost would require it.