

## Opinion No. 42-4095

May 28, 1942

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Rex French State Treasurer Santa Fe, New Mexico

{\*202} I have your letter of May 29th, wherein you refer to subsection 5, of Chapter 197 of the Laws of 1939, which pertains to the disposition of fees collected by the Contractors' Licensing Board, and request our opinion as to whether or not fifty (50) percent of the Contractors' Licensing Board fund, which is collected by the board in license fees for the ensuing or next "license year", should be transferred to the general fund along with license fees which have been collected for the privilege of doing business during the immediate past or current "license year."

In connection with this question, you point out that under Section 7 of said act, the licenses issued by the Contractors' Licensing Board expire on June 30, (same date as current fiscal year) and that renewals, for the ensuing or next year, are generally made during the months of May and June of each year, which months, are within the definition of the states' fiscal year.

The pertinent provisions of Section 5 of Chapter 197 of the Laws of 1939, read as follows, to-wit:

"\* \* \* Fifty (50%) per cent of the surplus remaining in said fund at the end of the fiscal year shall be transferred to the state general fund, and the remaining fifty (50%) per cent be carried forward in the contractors' license fund for the succeeding fiscal years."

At first blush, it would appear that the above quoted section of the law would make it mandatory to transfer fifty (50%) per {\*203} cent of all monies in the Contractors' Licensing Board fund on June 30th of each year, (the date the fiscal year ends) to the credit of the general fund, but after further study is becomes patent, to my mind, that such was not the legislative intent. Section 7 of said act makes the "licensing year" the same as the "fiscal year", and both expire on June 30th of each year. This being true, and in that a great majority of the licensees renew their licenses for the ensuing or next "license year" during May and June, and pay the prescribed fees as well during these months for the privilege of doing business for the next year, would it be logical to assert that fifty (50%) percent of the fees thus collected should be transferred to the general fund? We think not. If fifty (50%) percent of all this fund was transferred to the credit of the general fund on June 30th, regardless of the license year for which it was collected there would not be sufficient funds left for the board to function during the next or ensuing year.

Statutes should not be construed in such a manner as to lead to absurdity. I therefore conclude, that, at the end of the fiscal year, only fifty (50%) percent of that portion of the

fund remaining in the Contractors' Licensing Board fund should be transferred to the general fund, which was collected for the immediate past or current "licensing year". In other words, fifty (50%) percent of the money collected from license fees for the privilege of doing business for the next or ensuing year, should not be transferred to the general fund on June 30th, notwithstanding the fact that such fees were collected during the current fiscal year. To hold otherwise would defeat the purposes for which the board was created. The boards supervisory powers would be nil, because of the absence of necessary funds with which to operate and perform its duties.

By HOWARD F. HOUK,

First Asst. Atty. General