

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: May 10, 2011
TO: Public Safety and Neighborhood Services Committee
FROM: City Attorney
SUBJECT: Limitations on Uses of Abandoned Vehicle Abatement Funds

INTRODUCTION

The Abandoned Vehicle Abatement Program (AVA Program) is a statewide program administered by the California Highway Patrol. The AVA Program authorizes creation of county-based service authorities, and includes a funding source to reimburse service authorities for their costs of abating abandoned vehicles. The City of San Diego, together with the County of San Diego and other cities within the county, participates in the AVA Program through the San Diego Abandoned Vehicle Abatement Service Authority (AVASA).

QUESTION PRESENTED

What are the restrictions placed on funds the City receives from the AVA Program?

SHORT ANSWER

Money received shall be used only for the abatement, removal, or the disposal as a public nuisance of any abandoned, wrecked, dismantled, or inoperative vehicle or part of the vehicle from private or public property.

BACKGROUND

Two California statutes govern the AVA Program and the reimbursement of costs to service authorities participating in the Program.

I. CALIFORNIA VEHICLE CODE SECTION 22710

California Vehicle Code section 22710(a) authorizes the establishment of a service authority for the abatement of abandoned vehicles and imposition of a one-dollar vehicle registration fee on all vehicles registered in the county that established the service authority.

In 1991, the City Council adopted Resolution Number R-278829, establishing a San Diego County Abandoned Vehicle Abatement Service Authority. The City of San Diego, the County of San Diego, and the majority of cities in the County are members of the AVASA.

California Vehicle Code section 22710(c)(1) authorizes a service authority to adopt an ordinance establishing procedures for the abatement, removal, and disposal, as a public nuisance, of an abandoned, wrecked, dismantled, or inoperative vehicle or part of the vehicle from private or public property, and for the recovery of costs associated with the enforcement of the ordinance.

II. CALIFORNIA VEHICLE CODE SECTION 9250.7

California Vehicle Code section 9250.7 establishes a funding source for the abatement of abandoned vehicles by a service authority. Section 9250.7(a)(1) authorizes a service authority to impose a service fee of one dollar on all vehicles registered in the county that established the service authority. In addition to the one-dollar service fee, section 9250.7(a)(2) imposes a service fee of two dollars for commercial vehicles registered in the county that established the service authority.

The fees authorized by section 9250.7(a) are collected by the California Department of Motor Vehicles and, after deducting its administrative costs, deposited into the Abandoned Vehicle Trust Fund (Trust Fund). All the money in the Trust Fund is appropriated to the Controller for allocation to a service authority, and for payment of the Controller's administrative costs. After deducting its administrative costs, the Controller allocates the money in the Trust Fund to each service authority in proportion to the revenues received from the registration fees imposed by that authority.

ANALYSIS

The use of funds received by service authorities is strictly limited by California Vehicle Code section 22710:

The money received by an authority pursuant to Section 9250.7 and this section shall be used only for the abatement, removal, or the disposal as a public nuisance of any abandoned, wrecked, dismantled, or inoperative vehicle or part of the vehicle from private or public property. The money received shall not be used to offset the costs of vehicles towed under authorities other than an ordinance adopted pursuant to paragraph (1) or when costs are recovered under Section 22850.5¹.

Cal. Veh. Code § 22710(c)(2)(A).

In addition, section 22710(c)(2)(B) says that money received by a service authority but unexpended in a fiscal year may be carried forward by the service authority for the AVA Program in the following fiscal year, by agreement of the service authority and its member agencies.

Finally, section 9250.7 states that if any funds received by a service authority are not expended to abate abandoned vehicles pursuant to an approved AVA Program that has been in existence for at least two full fiscal years within 90 days of the close of the fiscal year in which the funds were received, and the amount of those funds exceeds the amount expended by the service authority for the abatement of vehicles in the previous fiscal year, the fee imposed per section 9250.7(a)² shall be suspended for one year.

CONCLUSION

Service authorities formed pursuant to California Vehicle Code section 22710(a) are restricted in how they may use funds from the Trust Fund. The City, as part of the San Diego AVASA, may use money received from the Trust Fund only for the abatement, removal, or the disposal as a public nuisance of any abandoned, wrecked, dismantled, or inoperative vehicle or part of the vehicle from private or public property. Therefore, costs directly related to enforcement of the ordinance under the AVA Program, including but not limited to personnel and equipment, are properly recovered through the Trust Fund.

JAN I. GOLDSMITH, CITY ATTORNEY



By Linda L. Peter
Deputy City Attorney

¹ California Vehicle Code section 22850.5 authorizes cost recovery for administrative charges related to removal, impound, storage, or release of vehicles.

² One-dollar service fee on all registered vehicles in the county, plus an additional two dollars for commercial vehicles registered in the county.