

## Opinion No. 47-4980

January 23, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. C. R. Sebastian, State Comptroller, Santa Fe, New Mexico

{\*8} In your letter dated January 15, 1947 you refer to Section 14-4201 of the 1941 Compilation, and also to Section 7-120 of the 1941 Compilation, and request an opinion as to whether the two statutes are in conflict.

Section 14-4201 pertains to the annual Appropriation Bill of municipalities and authorizes additional appropriations to be made upon the sanction of a majority of the legal voters of the municipality either by a petition signed by them or at a general or special election called therefore. This law was passed in 1884 and apparently re-enacted in the 1915 Code.

Section 7-120 pertains to budget revisions and authorizes a new budget item to be established in order to take care of an emergency that may arise after the budget has been finally approved; and for that reason it is doubtful whether this particular section is in conflict with Section 14-4201. However, under Section 76-302, municipalities are required to submit budget estimates and to certify necessary levies to the county commissioners, such levies to conform to and be within the budgets for such year as approved by the State Tax Commission.

It is also apparent that municipalities are bound by the budget law requirements, the same as counties, in view of the duties placed upon the Tax Commission under Section 76-510 of the 1941 Compilation, sub-sections 4 and 8.

Section 76-304 of the 1941 Compilation requires the county commissioners to make and order all levies of necessary taxes which would include levies certified by the municipalities.

Since municipalities are under the budget law and limited in their expenditures by the budget law pertaining to counties, it would be immaterial whether the appropriation by municipalities were increased or not, since the law prohibits an increase of the budget, with certain exceptions. It is thus apparent that for all practical purposes, Section 14-4201 is superseded by the later budget law with its limitations, and that no increase in the budget could {\*9} be effected by following the procedure set forth under this section.