

## Opinion No. 47-5031

May 23, 1947

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

**TO:** R. F. Apodaca Superintendent of Insurance State Corporation Commission Santa Fe, New Mexico

{\*53} This is in response to your letter of May 20, 1947, wherein you request the opinion of this office as to whether municipalities of over 5,000 population are authorized to use the Fire Protection Fund for payment of expenses of firemen attending state conventions.

Section 60-402 appearing in the Supplement to the New Mexico 1941 Compilation, provides, in part, as follows:

"The money so distributed to such cities, towns, villages or unincorporated communities shall be expended only for the maintenance of such fire departments and purchase and repair of fire apparatus and equipment, under the direction of the chief of the fire department in the city, town, village or unincorporated community where said fire department is a volunteer department serving without pay.

"Provided, that as to municipalities or unincorporated communities of less than five thousand (5,000) population the words "maintenance of such fire department, and the purchase and repair of fire apparatus and equipment," as used herein shall include \* \* \* the expense of firemen, not exceeding the amount of three hundred (\$ 300.00) dollars per year, in attending, state, city, town or village schools and conventions for firemen for a period of not to exceed one (1) week per year in the case of state schools and one (1) day a month in the case of city, town or village schools, **in addition to all items formerly included** within the meaning of said terms."

From the wording of the proviso, which wording is underlined above, it is apparent that the proviso **enlarged** the meaning of "maintenance \* \* \* purchase and repair \* \* \*" to include payment of expenses of firemen attending state conventions, **but made such enlarged meaning applicable only to municipalities of less than 5,000 population.**

In view of this, it must follow that the original language of the act, less the proviso, does not include such enlarged meaning, and that municipalities of over 5,000 population are not authorized to use the Fire Protection Fund to pay for expenses of firemen attending state conventions.

By WM. R. FEDERICI,

Asst. Atty. General