

Opinion No. 48-5131

February 20, 1948

BY: C. C. McCULLOH, Attorney General

TO: Dr. James R. Scott, Director Department of Public Health Santa Fe, New Mexico

{*132} I am in receipt of your letter of February 18, 1948 concerning Chapter 206 of the Laws of 1947.

Your first question is whether, by Section 7 of this chapter, \$ 20,000 is appropriated for each of the 36th and 37th fiscal years or whether only a total of \$ 20,000 (\$ 10,000 for each of the two fiscal years) is appropriated.

This section provides in part: "There is hereby appropriated for the purposes of this act the sum of \$ 20,000 for the 36th and 37th fiscal years from the State General Fund." While it may have been the intention of the Legislature to appropriate \$ 20,000 for each of the fiscal years, it failed to do so. The total sum appropriated is \$ 20,000 for use in the 36th and 37th fiscal years.

In your second question you ask what agency is responsible for administering this fund. It appears that two different funds are created. By Section 7, \$ 20,000 is appropriated from the State General Fund, "which funds are to be covered by the State Treasurer into the Mutual Domestic Water Consumers' Association Fund which fund shall not be expended for purposes other than for carrying out the provisions of this act."

By Section 4, provision is made that the Association "shall make formal application to the State Department of Public Health for a grant-in-aid from a fund to be hereinafter created for this purpose." (The fund created by Section 7.)

In Section 5 the following appears: "A requisite to securing such allocations of funds upon a Department {*133} of Public Health recommendation shall be * * *."

From the above it appears that when a water consumers association is formed the State Department of Public Health will make an allocation or transfer of a portion of the \$ 20,000 fund created by Section 7. This is further borne out by another portion of Section 4 which provides that "within sixty days from the date of such application, the Secretary - Treasurer of the Board of Directors of the Municipal Domestic Water Consumers' Association shall deposit with the State Treasurer to be covered by him in the special fund created for purposes of this act such funds as may be necessary to match state allocated funds."

In view of the foregoing it is my opinion that two distinct types of funds are contemplated: First, the \$ 20,000 fund created by Section 7 which would be under the jurisdiction of the Department of Public Health. In addition, it is my opinion that the

Legislature contemplated the creation of a special fund for each individual municipal water consumers' Association. When an association is formed and the contract approved, a new fund or account would be set up for this association. The Department of Public Health would then transfer from the \$ 20,000 fund such amount as is allocated to the particular association. The association would then deposit with the State Treasurer its share which would be covered into the same fund.

It would not be necessary for a voucher and warrant to be used by the Department of Public Health to effectuate this transfer since it is merely a transfer from one account to another in the Treasurer's Office. When money is expended by the local association, the Secretary-Treasurer would draw a voucher which would be submitted to the Department of Public Health for approval. Upon approval the voucher would be submitted to the auditor who would draw a warrant on the fund of the particular association.

Thus the State Department of Public Health would be responsible for the \$ 20,000 created by Section 7 and the individual water users' association, subject to approval of the individual vouchers by the Department of Public Health, would be responsible for its own particular fund.

Trusting the foregoing sufficiently answers your inquiry, I am

By ROBERT W. WARD,

Asst. Atty. General