

Opinion No. 55-6110

February 18, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: D. M. Smith, Jr., State Comptroller, Santa Fe, New Mexico

In your letter dated February 15, 1955, you enclose a letter from the Sheriff of Sandoval County, stating that the Board of County Commissioners has authorized him to employ a deputy to be designated a Highway Traffic Patrolman and to pay such deputy a salary out of the County Road Fund of \$ 160.00 per month. In connection with this matter, you ask the following questions:

1. Would the salary of the highway traffic patrol man be properly chargeable to the Road Fund budget?
2. Could the Board of Sandoval County Commissioners properly approve the disbursement of cash from the Road Fund created by the Laws of 1917, Chapter 38-18, (Section 55-3-1, New Mexico Statutes, 1953 Compilation), for payment of the salary of the highway traffic patrolman?

§ 55-3-1 creates the county road fund and provides that the board of county commissioners shall have general control and management of all roads, highways and bridges in their respective counties, except state roads, and shall have power to establish and change and to maintain the same as provided by law.

§§ 55-3-6 and 55-3-7 provide for the disbursement from the road and bridge fund and require itemized bills showing in detail the time, place and character of work done or supplies and materials purchased.

It is thus apparent that a county road fund is intended to be used for the establishment, construction and maintenance of county roads and may not be used for other purposes nor may the same be transferred to other county funds. A highway traffic patrolman is not even remotely connected with the construction and maintenance of county roads and, therefore, in our opinion, his salary could not properly be chargeable or disbursed from the county road fund.

I am returning herewith the letter from the Sheriff of Sandoval County, which was attached to your letter.

By C. C. McCulloh

Assistant Attorney General