

Opinion No. 55-6225

July 11, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. L. D. Wilson, Chief Highway Engineer, State Capitol, Santa Fe, New Mexico

You have asked our opinion as to whether the State Highway Commission can contribute from the state road fund a sum in the amount of \$ 5,000 to New Mexico Traffic Safety Commission pursuant to the request of Mr. Lamb, Chairman of said Commission, to be applied toward the operation of its statistical section.

Under ordinary circumstances it would seem that when a state agency has been established by the legislature, specific duties given it by law and appropriations made for its operations and for the performance of those duties, that it would then be required to perform those duties for the amount provided in its appropriation and could not receive assistance from other state agencies operating under similar specific appropriations. These general principles, at least as to public officials, are set forth in *Fancher v. Board of County Commissioners of Grant County*, 28 N.M. 179.

The situation presented, however, is unusual. The State Highway Commission set up by the Constitution, Art. 5, Sec. 14, has been given very broad powers with reference to the expenditure of the road funds. It is also charged with the duty of determining all matters of policy relating to state highways and public roads.

The New Mexico Traffic Safety Commission, set up by Chapter 186 of the Laws of 1955, is given specific functions and duties designed to prevent accidents, promote traffic safety, provide public information, promote research and special studies, and to analyze problems concerning safety and to make reports.

There can be little doubt but that the Highway Commission could establish its own division to perform identical duties or hire independent agencies to perform them, if such was its policy. If another state agency is performing these duties, and can better perform them or assist the Commission by receiving its financial assistance, we believe it is within the power of the Commission to render it financial assistance if such is its policy. The expenditure is certainly included within its authority for the expenditure of such funds for the construction, improvement and maintenance of public roads, if any matters of traffic safety are within these terms.

Sec. 7 of Chapter 186, Laws of 1955, authorizes the New Mexico Traffic Safety Commission, with the approval of the Governor, to accept gifts, grants or monies for any and all purposes specified in the Act and provides that the grant shall be held by the State Treasurer in a special fund and shall be expended in accordance with the terms thereof upon proper voucher and warrant drawn by the Director and approved by the Commission. This section indicates that the legislature did not intend to limit the Traffic

Safety Commission to the expenditure of those funds provided for in the appropriation act only, but contemplated the receipt of additional grants and authorized their acceptance and provided for the manner of their expenditure.

We cannot say that Sec. 7 contemplated the receipt of funds from other State Departments, although prior to the enactment of Chapter 186, the Governor's Traffic Safety Coordinating Committee did function by virtue of financial assistance and cooperation from various state departments. We do feel, however, that if the state agency has power in itself to make the grant that Sec. 7 would authorize its receipt by the Traffic Safety Commission and that in view of the similarity of purposes and the broad powers conferred upon the Highway Commission by the Constitution, that it is authorized to participate in the amount and for the purposes contemplated by both commissions.

By Fred M. Standley

Assistant Attorney General