

Opinion No. 58-47

March 6, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,
Assistant Attorney General

TO: Mr. E. M. Barber, District Attorney, Seventh Judicial District, Truth or
Consequences, New Mexico

QUESTION

QUESTION

May the cost of printing and issuing of county fair bonds be paid from revenues derived from the sale of the said bonds?

CONCLUSION

Yes.

OPINION

ANALYSIS

On August 30, 1956, the Board of County Commissioners of Sierra County voted to hold a bond election on the issuance of \$ 25,000.00 in bonds for the purpose of erecting buildings for a Sierra County Fair. On September 4, 1956, pursuant to Section 11-6-14, NMSA, 1953 Comp., the State Tax Commission, by C. L. Forsling, Chief Tax Commissioner, furnished Sierra County with all the necessary information concerning the issuance of bonds. In the Commission's notice to the County Commissioners of Sierra County, the seventh paragraph is as follows:

"No commission, attorney's fees, examination fees, or any expenses other than advertising shall be paid for the sale of any bonds."

The bonds were advertised for sale and on February 15, 1958, they were sold to the State of New Mexico at a rate of 3.20% interest

Since the order from the State Tax Commission specifically prohibits any expenses other than advertising, the County Commissioners of Sierra County desire to know who is to pay for the cost of printing and issuing said bonds.

We have found no statutory prohibition which specifically prohibits the payment of the cost of printing and issuing fair bonds. Secs. 45-21-1 to 45-21-3, NMSA, 1953 Comp., merely authorizes the issuance of the bonds upon a favorable vote of the electorate. No

restriction is put upon the fund raised by the bond issue except that it be used for the purchase of land and construction of buildings and the equipping of the same. It is obvious to us that the cost of printing and issuance of the bonds must be paid in order to give effect to the act as provided by the Legislature. Certainly, printing and the issuance of bonds is a necessary and proper cost of any bond issue. If the necessary funds to print and issue the bonds cannot be obtained from the funds raised by the issue, such costs would have to be taken from the County's General Fund.

By way of conclusion, we find no authority in Sec. 11-6-14, supra, or related statutes which authorize the State Tax Commission to limit proceeds of a fair bond sale to advertising purposes only. As we have indicated above, the printing and issuing of bonds is a necessary and proper cost of the bond issue. Accordingly, we are of the opinion that the cost of printing and issuing of county fair bonds may be paid from revenue derived from the sale of the fair bonds.