

Opinion No. 59-17

February 24, 1959

BY: FRANK B. ZINN, Attorney General

TO: Honorable W. T. Scoggin District Judge Third Judicial District Las Cruces, New Mexico

County commissioners are without authority to levy special tax to purchase building for county purposes.

County commissioners have no authority to borrow money for such purpose without issuing bonds.

OPINION

{*24} This is in reply to your request for an opinion on the following questions:

May county commissioners levy a special tax to purchase a building adjoining the court house for the district health office and the county agent?

May county commissioners borrow money for this purpose, without issuing bonds?

It is my opinion that county commissioners are not authorized by law to levy a special tax to purchase a building, when the county has a court house, even though the building is to be used for county purposes. My further opinion is that county commissioners are not authorized to borrow money for such purpose, by a method other than issuing bonds.

In Sec. 72-4-4 (p.s.) county commissioners are required to make necessary levies, within the limitations as to purpose and maximum rates as fixed by law. See also Sec. 72-4-11. But nowhere do I find authority for a special or other levy for this purpose. By Secs. 15-47-1 et seq., a tax levy is authorized to provide a suitable court house or suitable jail, or to repair these buildings, but in my opinion this is not authority for the proposition in question.

As to your second question, it is my opinion the proposed borrowing would be violative of the Constitution of New Mexico, Article IX, Sec. 10. Please note that this opinion is not addressed to the question of the authority of the county to issue bonds for the acquisition or construction of public buildings.

Robert F. Pyatt

Assistant Attorney General