

Opinion No. 59-84

July 29, 1959

BY: HILTON A. DICKSON, JR., Attorney General

TO: Mr. Benny E. Sanchez Motor Vehicle Commissioner State Capitol Building Santa Fe, New Mexico

{*142} This is written in reply to your recent request for an opinion on the following:

"Whether a City Clerk or City Manager would be required to furnish an additional bond when that particular city has been designated distributor of license plates."

It is my opinion that: No, these officials do not have to furnish additional bonds, but see discussion below. The statute that governs the answer to your question is Section 2, Chapter 6, Laws 1959 which reads in part as follows:

". . . before undertaking any duty in behalf of the commissioner, they shall execute a surety bond, . . . in such amount as the commissioner shall require, in the form required by law of public officials."

It is clear from this section that such persons must be under bond. It is equally clear that if these persons are now under bond, the interests of the State may be sufficiently protected within the intent and meaning of the above quoted section. To require another bond would be simply a matter of duplication and would achieve no useful purpose nor would it offer any more protection to the State than would be achieved if these persons were bonded only once.

It should be pointed out, however, that the Commissioner must approve the amount of the issuing bond since the statute requires that the bond be in an amount required by the Commissioner. It should be further noted that the present existing bonds would have to be amended to provide for the added responsibility of these officials. With these things in mind, it is my view that presently existing bonds of city officials of a city designated distributor of license plates are sufficient to meet the requirements of Section 2, Chapter 6, Laws 1959, if these bonds are approved by the Commissioner as to amount and are amended to provide for these officials' added responsibility. By amending the bonds it is understood that they will have to provide for the additional responsibility of the employee or official and that because of this, the amount of the bond {*143} will more than likely have to be increased with the accompanying increase in premium.