

Opinion No. 60-55

March 28, 1960

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

TO: Mr. Clovis Baca County Commissioner Valencia County P. O. Box 391 Grants, New Mexico

QUESTION

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In the event of annexation of the Village of Milan to the Town of Grants, would the property presently within the Village of Milan be subject to **ad valorem taxes** to retire the present general obligation bonded indebtedness of the Town of Grants?

CONCLUSION

No.

OPINION

{*412} ANALYSIS

The apportionment of existing indebtedness upon consolidation, annexation or dissolution of a municipal corporation is wholly within the power of the Legislature. This general rule is stated in 2 McQuinlin, **Municipal Corporations**, 3rd Ed., Section 8.24, P. 456, as follows:

"When unaffected by constitutional provisions, it is wholly within the power of the legislature, on dissolution of a municipal corporation and the transfer of its territory to others, to apportion its indebtedness between such others and to determine what proportion shall be borne by each."

In New Mexico the Legislature has seen fit, in Section 14-6-10, N.M.S.A., 1953 Compilation to leave the burden of existing indebtedness as it was before consolidation. This section, after providing for the manner and time when annexation is completed, contains the following proviso:

"Provided, that such annexation shall not affect or impair any rights or liabilities **then existing** for or against either of such cities or towns, and they may be enforced the same as if no such annexation had taken place." (Emphasis supplied).

This proviso, we feel, is determinative of the question which you have posed.

It is noted that the statutes under which you are proceeding applies only to **cities** and **towns** and we assume that the procedures set out in Sections 14-39-9 and 14-39-10, N.M.S.A., 1953 Compilation, have been complied with in order that the Village of Milan be vested with the powers and privileges by law granted to incorporated towns.

Your letter also asks as to the possibilities of any inequities in taxation that might result from the annexation. I might point out the possibility of a refunding issue at a later date by the Town of Grants for the purpose of retiring presently outstanding bonds. Whether or not the burden of such refunding issue, if made, could be extended to the annexed territory is a question on which we offer no opinion at this time. That is a point that should be worked out between you and included in the "terms and conditions," provided for in the procedures set out in Section 14-6-9, N.M.S.A., 1953 Compilation.

By: Patricio S. Sanchez

Assistant Attorney General