

Opinion No. 63-44

May 3, 1963

BY: OPINION of EARL E. HARTLEY, Attorney General

TO: Mr. Lee S. Garner, Director Cattle Sanitary Board of New Mexico P.O. Box 1296
Albuquerque, New Mexico

QUESTION

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Is the Cattle Sanitary Board of New Mexico limited by statute in the maximum amount which it may contribute toward the total cost of group insurance carried for its employees?

CONCLUSION

Yes, the Board is limited by statute to a maximum contribution of twenty percent of the total cost of such group insurance program.

OPINION

{*90} ANALYSIS

The statutory provision authorizing public employers of the State to contribute public monies toward paying a portion of the cost of group insurance is contained in Section 5-4-12, N.M.S.A., 1953 Compilation. This section provides as follows:

"Group insurance -- Contributions from public Funds Limited. -- **All state departments and institutions and all political subdivisions of the state of New Mexico are here by authorized to cooperate in providing group or other forms of insurance for the benefit of eligible employees of the respective departments, institutions and subdivisions; provided that contributions of state of New Mexico or any of its departments or the political subdivisions of the state shall not exceed twenty per centum (20%) of the cost of such insurance.**" (emphasis supplied.)

From a careful reading of the above statute, we believe such statute has application to the Cattle Sanitary Board of New Mexico and constitutes a legal limitation upon the maximum amount of contribution which the board may make in providing funds for group insurance programs covering the board's employees.

The term "departments" as utilized in Section 5-4-12, supra, has application to the three basic departments of state government, as recognized in Article III, Section 1 of the State Constitution, and which comprise the legislative, executive and judicial

departments As defined in Ballentine's Law Dictionary, at page 361, the words "department of government"

Mean:

"The three great divisions of governmental power under the American Constitutional system, the legislative, executive, and judicial, each of which is separate from the others."

All of the subordinate state boards, agencies, divisions and commissions within the executive department of the state government would be included within the broad general context of the statute quoted above.

{*91} The objective of the statute was to expressly provide authority for the State, State institutions and political subdivisions of the State to make contributions from public funds to pay a portion of the cost of group insurance policies carried for the benefit of their employees up to certain prescribed maximums. Such contributions may be validly made if the amounts contributed by the State employer are kept within the twenty percent limitation specified by Section 5-4-12, supra. See also our recent Attorney General's Opinion No. 63-25, dated March 28, 1963.

By: Thomas A. Donnelly

Assistant Attorney General