

## Opinion No. 64-143

December 1, 1964

**BY:** OPINION OF EARL E. HARTLEY, Attorney General Thomas A Donnelly, Assistant Attorney General

**TO:** Deputy Chief Joseph A. Black, New Mexico State Police Dept. P. O. Box 919, Santa Fe, New Mexico

### QUESTION

#### QUESTION

Is the New Mexico State Police Board required to obtain the official consent of any public body other than its own board approval prior to trading, selling or disposing of any real estate and improvements belonging to the New Mexico State Police Board and when the consideration therefor amounts to the sum of \$ 100,000.00 or more?

#### CONCLUSION

Yes.

### OPINION

#### ANALYSIS

The question which has been presented by you is governed by the provisions of Section 6-1-8.1, N.M.S.A., 1953 Compilation. This Section sets out in full as follows:

**"SALE, TRADE OR LEASE OF REAL PROPERTY BY STATE AGENCIES, BOARDS, DEPARTMENTS, COMMISSIONS OR INSTITUTIONS -- APPROVAL OF LEGISLATURE -- EXCEPTIONS.** A. Any sale, trade or lease for a period exceeding twenty-five (25) years in duration of real property belonging to any agency, board, department, commission or institution of this state, which sale, trade or lease shall be for a consideration of one hundred thousand dollars (\$ 100,000) or more, shall be subject to the ratification and approval of the state legislature prior to such sale, trade or lease becoming effective. **The provision specified in Section 6-1-8, New Mexico Statutes Annotated, 1953 Compilation, requiring approval of the state board of finance as a pre-requisite to consummating such sales or disposition of realty shall not be applicable in instances wherein the consideration for such sale, trade or lease shall be for a consideration of one hundred thousand dollars (\$ 100,000) or more and herein a state agency, board, department, commission or institution not herein specifically excepted is a contracting party, and in every such instance, the legislature shall specify its approval prior to such sale, trade or lease becoming effective.**

B. The provisions of this 1961 act (this section) shall not be applicable as to those institutions specifically enumerated in Article XII, Section 11 of the state constitution, the state land office or the state highway commission." (Emphasis added)

As is stated above if the consideration for any sale, trade or lease by a state agency, board, department, commission or institution shall be for consideration of one hundred thousand dollars or more it is subject to the ratification and approval of the state legislature prior to such sale, trade or lease becoming effective. By express language the New Mexico State Highway Department and the New Mexico State Land Office are exempt from the requirements of such sections, however, all other state governing bodies must comply with such section.

If the New Mexico State Police Board receives consideration from any private entity or from any other public body and such consideration amounts to the sum of one hundred thousand dollars or more then it is required under such statute that the New Mexico state legislature give its approval prior to such sale, trade or lease becoming effective. In instances where the consideration is less than one hundred thousand dollars then pursuant to Section 6-1-8, N.M.S.A., 1953 Compilation, any department, commission, agency or institutional board of the State, or local public school district is empowered to sell or otherwise dispose of real property belonging to such public body subject to "approval of the State Board of Finance."

Under the clear import of the above cited Sections, it is our opinion that any sale, trade or lease of real property by the New Mexico State Police Board wherein the consideration for such sale, trade or lease comprises the sum of one hundred thousand dollars or more, such sale, trade, or lease is subject to the ratification and approval of the New Mexico State Legislature prior to such agreement becoming effective. This requirement for prior approval by the State Legislature is applicable even though the other party to such agreement may be another public agency such as the State Land Office or the State Highway Commission, since the statutory exemption applies only to such bodies. As pointed out above, the State Land Office and the State Highway Commission are expressly exempt from requirements of Section 6-1-8.1, supra; however, all other non-exempt departments, commissions, agencies, or boards of the state, are subject to the provisions of such section where they are parties and where the consideration involved is \$ 100,000.00 or more.