

## Opinion No. 65-142

July 30, 1965

**BY:** OPINION OF BOSTON E. WITT, Attorney General George Richard Schmitt,  
Assistant Attorney General

**TO:** Mr. C. R. Sebastian, Director, Department of Finance and Administration, Santa Fe,  
New Mexico

### QUESTION

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May state court funds be used to assist with the payment for legal services rendered to the State Labor Commissioner by the Attorney General's Office?

#### CONCLUSION

No.

### OPINION

#### {\*238} ANALYSIS

The state court fund which is created by Section 16-3-27, N.M.S.A., 1953 Compilation (P.S.) is disbursed pursuant to the provisions of Section 16-3-28 and Section 16-3-28.1 which are set forth as follows:

**"State Court fund -- Disbursements.** -- A. The State board of finance shall determine the **need of any county {\*239} for funds to be used for the trial of cases** and may require submission of evidence it deems necessary, If it determines funds are needed, it shall certify to the department of finance and administration the amount needed.

B. The director of the department of finance and administration shall issue his warrant upon the state court fund and payable to the county treasurer for credit to the **court fund of the county to be used only for the trial of cases in the county.**

C. The clerk of the district court of the county shall render an itemized statement of the disbursement of the money in any form required by the state board of finance."

**"Habeas Corpus proceedings in Supreme Court and federal courts -- payment of expenses from state court fund.** -- Upon application to the state board of finance by the Supreme Court of New Mexico or the warden of the penitentiary of New Mexico, in such form as the state board of finance may require, funds of the state court fund shall be made available to the court to pay the expenses, of whatever kind authorized by law,

of habeas corpus proceedings brought or heard in the court, and shall be made available to the penitentiary to pay the expenses, of whatever kind authorized by law, of habeas corpus proceedings brought or heard in any court other than the district courts or the Supreme Court of this state." (Emphasis supplied.)

Under the specific authorization of the statutes cited above, disbursements from the state court fund may only be made for the trial of cases in the counties or for expenses incurred in habeas corpus proceedings. Thus, the State Labor Commissioner could not validly receive such funds in order to assist with the payment for legal services given to his office by the Attorney General.