

Opinion No. 65-92

June 8, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Wayne C. Wolf, Assistant Attorney General

TO: John R. Bradford, Jr., Chief, New Mexico State Police, P.O. Box 1628, Santa Fe, New Mexico

QUESTION

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1. It it possible to administer the supplemental trust fund provided for in Section 39-4-2 to provide benefits to members of the New Mexico State Police who are injured in the line of duty?
2. If the answer to the first question is "yes" then what procedure should be followed in administering the fund and implementing any appropriation to the fund which might be made by the legislature?

CONCLUSION

1. See analysis.
2. See analysis.

OPINION

{*156} ANALYSIS

The purpose of the supplemental trust fund referred to in Section 39-4-2, N.M.S.A., 1953 Compilation is stated in Section 39-4-1, N.M.S.A., 1953 Compilation. This last section specifically says that the purpose of the supplemental trust fund is to provide benefits to State Policemen for disability or death occurring in the line of duty. Therefore, if the State Policemen is injured in the line of duty and suffers disability as the result of that injury then he is entitled to benefits in accordance with the terms of the supplemental trust agreement which is drafted in order to govern the administration of the supplemental trust fund.

Thus it appears that an injured State Policeman who is disabled as a result of his injury is eligible for benefits from the supplemental trust fund. The manner in which those benefits may be made to the disabled policeman depends upon the terms of the trust agreement controlling the supplemental trust fund.

Your second question asks what procedure should be followed in administering the supplemental trust fund and implementing any appropriation to the fund which might be made by the legislature.

It is our understanding that at the present time an insurance policy constitutes the supplemental trust agreement which is referred to in Section 39-4-2, supra. This particular policy of insurance has limits on the total amount of benefits which may be paid in any particular instance. If it is desired to have benefits for disabled policemen over and above the limits of coverage of this particular insurance policy then those benefits should themselves be the subject of a trust agreement. The trust agreement should provide for the extent of these additional benefits and the manner in which the same might be disbursed to disabled state policemen.

It is apparent that the Twenty-Seventh Legislature of the State of New Mexico appropriated an additional \$ 5,000.00 to be used in the supplemental trust fund. See Chapter 159, Laws of 1965. The appropriating act provides that this additional \$ 5,000.00 shall be used for the benefit of New Mexico State Policemen who have been or may be totally disabled in the line of duty. This additional sum should likewise be administered so as to benefit disabled policemen in accordance with the terms of the aforementioned trust agreement or any additional agreement {**157*} which might be drafted.

It is therefore our conclusion that all monies now in the supplemental trust fund including those monies appropriated by the Twenty-Seventh Legislature of the State of New Mexico may be expanded to benefit disabled State Policemen who have been injured in the line of duty. Any such expenditures must be made in accordance with the terms of an appropriate trust agreement in accordance with the mandate of Sections 39-4-1 and 39-4-2, N.M.S.A., 1953 Compilation.