

## Opinion No. 66-138

December 13, 1966

**BY:** OPINION OF BOSTON E. WITT, Attorney General Roy G. Hill, Assistant Attorney General

**TO:** Abner Schreiber, Los Alamos County Attorney, P. O. Box 800, Los Alamos, New Mexico

### QUESTION

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Under the present system, the Los Alamos County School System receives 9.45 mills of the County's 20-mill property taxation. May a redistribution be made whereby 2.25 mills of the 9.45 mill school system share will go to Los Alamos County?

#### CONCLUSION

Yes.

### OPINION

#### {\*181} ANALYSIS

Throughout the State, some school districts levy a 4 1/2 mill charge on all property located within a school district including property within a municipality. The municipalities, if any, do not make a levy. The school district then by agreement pays to the municipality approximately the amount the municipality would have received from a relinquished 2 1/4 mill levy on property within the municipality. This procedure has been approved by this office. Opinion No. 6265, dated August 26, 1955, and Opinion No. 65-17, dated February 2, 1965.

Los Alamos County is entitled to participate in the tax levy as a municipality as well as a county because it is an H-Class County. Section 14-1-2, N.M.S.A., 1953 Compilation (P.S.), is the definition section of the Municipal Code. Subsections F and G, respectively, read as follows:

"F. 'Governing body' means the city council or city commission of a city, the board of trustees of a town or village and the **board of commissioners of H class counties**;

G. 'Municipality' or 'municipal' means any incorporated city, town or village, whether incorporated under general act, special act or special charter, and **H class counties.**" (Emphasis supplied.)

By virtue of these two sections, Los Alamos County is a municipality for purposes of the Municipal Code. In addition, Section 15-36-13, N.M.S.A., 1953 Compilation (P.S.), provides as follows:

"15-36-13. Counties of the H Class -- Power to enact ordinances. -- **Counties of the H class shall have, in addition to the other powers granted to counties** by law, **all those powers and authorities now or hereafter granted to incorporated municipalities**, including those powers and authorities by which incorporated {<sup>\*182</sup>} municipalities are or may be empowered to enact ordinances." (Emphasis supplied.)

In view of the above statutes, it is our opinion that Los Alamos County is, through the Local Government Division of the Department of Finance and Administration, entitled to seek a redistribution of the tax levy as noted above.