

Opinion No. 67-123

October 27, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Mr. Leonard T. Valdes Executive Secretary Public Employees Retirement Assn.
P.O. Box 2123 Santa Fe, New Mexico

QUESTION

QUESTION

Are enforcement officers of the Motor Transportation Department to be considered police officers for retirement purposes under Sections 5-5-1, et seq., N.M.S.A., 1953 Compilation?

CONCLUSION

No.

OPINION

{*189} **ANALYSIS**

Section 5-5-1, N.M.S.A., 1953 Compilation in pertinent part provides:

"Definitions. -- The following words and phrases as used in sections 5-5-1 to 5-5-23 New Mexico Statutes Annotated, 1953 Compilation, unless a different meaning is clearly indicated by the context, shall have the following meanings:

* * * *

J. (1) 'State police member' means any member who is an officer of the state police of New Mexico and who has taken the oath prescribed for such officers.

(2) 'Municipal police member' means any member who is employed as a police officer by any affiliated municipality, and who has taken the oath prescribed for such officers.

(3) 'Municipal fireman member' means any member who is employed as a full-time fireman, at a monthly salary of not less than one hundred fifty dollars (\$ 150) by any affiliated municipality, and who has taken the oath prescribed for such fireman. The terms 'state police member,' 'municipal police member' and 'municipal fireman member' shall not include any person temporarily employed as a state or municipal policeman during an emergency, nor shall it include any civilian employee or volunteer nonsalaried fireman."

Section 5-5-9, N.M.S.A., 1953 Compilation, provides that every state police member, municipal police member and municipal firemen member shall pay seven percent of his regular salary.

The question raised is whether Motor Transportation Department inspectors are policemen within the meaning of the above provisions and therefore entitled to the higher benefits given to policemen. It is our opinion that as the inspectors do not qualify as either state police or municipal police as those terms are defined by the act, they are not policemen for the purposes of the act.

By: Myles E. Flint

Assistant Attorney General