

**Opinion No. 13-1105**

September 13, 1913

**BY:** M. J. McGUINNESS, Assistant to the Attorney General

**TO:** Hon. James A. French, State Engineer, Santa Fe, N. M.

**COUNTY ROAD BOARD.**

County Commissioners cannot transfer money in the road fund to the general fund.

**OPINION**

{\*279} In answer to the question submitted to you by the county road board of Torrance county, whether or not the board could issue warrants against the road fund when there is no money in that fund, I will state that you can not. It appears from the letter above referred to that the county commissioners "borrowed" the sum of \$ 2,500, from the road fund, and placed it in the general fund. I have looked this matter up very carefully and fail to find any authority empowering the county commissioners to take this money from the road board and cover it into the general fund. Chapter 110 of the Session Laws of 1903 at Section 3 thereof, specifically provides, after providing for a levy on taxable property of the state for road purposes, that "the proceeds of such levy constituting such road fund shall be paid out only on the order and warrants of the board of county commissioners regularly issued, and such road fund shall be used and expended only for such purposes and in such manner as the board of county commissioners shall in their discretion order and authorize through the road overseers or otherwise," As you will see, this was a special levy for road purposes only and I fail to find any authority given the county commissioners to transfer this fund into any other fund.

I return herewith the letter of the Torrance county road board.

I trust I have fully answered your question.