

Opinion No. 14-1287

July 27, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Honorable H. B. Hamilton, Carrizozo, New Mexico.

LIQUOR LICENSE.

Procedure in refunding money paid for a liquor license in territory which has been voted dry.

OPINION

{*147} Your letter of the 23rd inst. was received here yesterday, Sunday. You ask as to how the money, refund for which is provided by Section 14 of Chapter 78 of the Laws of 1913 to the holder of a liquor license in territory which has been voted dry shall be made, the difficulty being as to just how we would get back from a school district fund its part of the money to be refunded. As you say money drawn from a school district fund ordinarily must be drawn by a warrant made by the treasurer of the district, and while the county commissioners can draw warrants against other funds to which any of the money went, they may not have authority to order the school directors to draw such a warrant.

I think it is very doubtful whether school directors could draw any warrant for such a purpose as the refund of money paid for a liquor license. I think that their powers are restricted to drawing warrants against their district fund for school purposes and that they cannot draw warrants for any other purpose. Here we have, however, a legislative order that the money shall be refunded. The money has all gone into the county treasury and the board of county commissioners has the general care of all county business not otherwise specifically provided for by statute, as will appear by reference to the powers given the board by Section 664 of the Compiled Laws of 1897.

I believe that it would be perfectly safe and proper for the county commissioners to draw a warrant for the amount to which the ex-liquor dealer is entitled and in that warrant direct the treasurer to charge the proper proportion to each of the funds, including the district school fund, into which the money had gone and the treasurer can then notify the school directors of the district and the county superintendent of the fact that he has charged against the account of the district its portion of that money.