

Opinion No. 18-2080

January 19, 1918

BY: MILTON J. HELMICK, Assistant Attorney General

TO: Honorable W. E. Lindsey, Governor of New Mexico, Santa Fe, New Mexico.

Offices Over Which the State Board of Finance Has Supervision.

OPINION

We have your favor of the 10th instant wherein you ask, on behalf of the State Board of Finance, who are officers and what constitutes departments, commissions, or bureaus of the State, wherein the meaning of the provisions of Chapter 57 of the Session Laws of 1915.

You are advised that these words are used in Section 3 of the said chapter, where it is provided that:

"In all cases where any state official, department, commission, or bureau shall collect any moneys for any service rendered, examinations made, licenses issued, or otherwise."

the money shall be paid into the State Treasury, etc. In Section 4 the words are also used in providing that the State Board of Finance:

"Shall have supervision of the safe-keeping of all moneys coming into the State Treasury, and all public moneys coming into the possession of any state official, department, commission, or bureau."

In Section 2 of the said chapter, which pertains to the payment of moneys into the State Treasury, it is provided:

"It shall be the duty of each and every official having custody of any moneys received from any source other than the State, to pay into the State Treasury," etc.

In my opinion the said chapter contemplates that the State Board of Finance shall have supervision over all the various State offices and departments which are, in a measure, collecting agencies of the State. It seems to me that the provisions above quoted clearly indicate that such control of the State Board of Finance extends only to those various departments which receive moneys from sources other than the State itself, such as license fees, examination fees, filing fees, and the like. It would seem that there would be no occasion for any financial supervision of offices which have no financial functions, and which receive no moneys except from the State itself in pursuance of regular appropriations. The obvious intent of the law, in my opinion, is to provide for the

supervision of all State agencies, which receive money from other sources than the State itself, and which necessarily handle moneys which are ultimately paid to the State.

I do not know that I can give a correct list of specific offices and departments to which the chapter applies. Obviously the Secretary of State falls within the classification you mention, because his office collects auto license fees, various filing fees, etc. The State Land Commission, of course, receives large sums of money on account of the sale and leasing of State land; and the State Engineer's office likewise receives various fees for water filings, and for services performed. The State Bank Examiner and the Corporation Commission, and the Game Warden are also examples of the departments which receive moneys through sources other than the State, for the benefit of the State. The State Treasurer is, of course, obviously within the classification mentioned.

It is therefore my opinion that the above named officers and departments, to-wit: the State Treasurer, the Secretary of State, the Land Commissioner, the Bank Examiner, the Corporation Commission, and the Game Warden constitute officials, departments, commissions and bureaus contemplated by the said Chapter 57. There may be some others which I have overlooked, but, if so, I think the test set out will enable you to determine in any case whether or not any specific department should be considered under the supervision of the State Board of Finance. Departments which receive no moneys except from the State, and which have no financial functions, are, in my opinion, not contemplated by the said law.