

Opinion No. 37-1678

June 18, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mr. J. O. Garcia State Auditor Santa Fe, New Mexico
Mr. Jas. J. Connelly State Treasurer Santa Fe, New Mexico

{*125} This is to acknowledge receipt of Mr. Connelly's letter of June 15th in which he requests a reconsideration of Opinion No. 1661 in so far as it pertains to the method in which monies from the cattle indemnity fund shall be disbursed.

Our attention has been called to the fact that Section 6, Chapter 53 of the Laws of 1933, provides that all taxes levied to make up the cattle indemnity fund shall be paid to the State Treasurer and by him "transferred" to the Cattle Sanitary Board. It is Mr. Connelly's contention that the Cattle Sanitary Board is a state agency under the provisions of Section 112-102, 1929 Compilation, and that monies appropriated to said Board must be expended pursuant to the provisions of Section 112-124, 1929 Compilation.

Our attention is further called to the fact that the legislature in using the word "transferred" manifested a legislative intent to have the same transferred upon the books of the State Treasurer to the Cattle Sanitary Board fund and not that the same should be paid over to the Cattle Sanitary Board to be expended by them subject only to limitations imposed by the act authorizing the expenditure of such monies.

The wording of the section is ambiguous. The word "transferred" does not import payment. It is our belief that if the legislature had intended that such funds should be paid over to the Cattle Sanitary Board, it would have said so in so many words, and that the act instead of stating such funds "shall be transferred to the Cattle Sanitary Board," would have said "such funds shall be paid over to the Cattle Sanitary Board." This interpretation we think is strengthened when the section in dispute is construed with the various sections of our public monies act, the same being Chapter 112 of the 1929 Compilation. That chapter expressly limits the manner in which public monies may be expended, Section 112-124 thereof providing that public monies may be disbursed only upon warrants drawn upon itemized vouchers.

In view of the ambiguity of Section 6 and in view of its doubtful application as pointed out in Opinion No. 1661 it is our opinion that you should only authorize disbursements out of the Cattle Sanitary Fund upon warrants drawn upon itemized vouchers as provided in Section 112-124, and Opinion No. 1661 is hereby modified to that extent.

By: RICHARD E. MANSON,

Asst. Atty. Gen.