

Opinion No. 51-5431

September 26, 1951

BY: JOE L. MARTINEZ, Attorney General

TO: Mr. Abner Schreiber Assistant District Attorney Los Alamos, New Mexico

{*137} Recently you forwarded to this office a resolution of the Board of County Commissioners of Los Alamos County, which would authorize the employment of an attorney to handle the legal affairs of the county.

§ 17-111, N.M.S.A., provides that the District Attorney shall advise the County and State officials whenever such advice is requested. § 17-112 prohibits any attorney from representing the county other than the district attorney or his assistant. Consequently, Los Alamos County is not authorized to employ any attorney to handle county legal affairs.

It appears further that by virtue of the designation of Los Alamos County as a sixth class county, conferring upon it the powers granted to sixth class counties as provided in Chap. 8, Laws of 1951, the services of an attorney may be needed in connection with the enforcement of ordinances which it may enact and in connection with the exercise of municipal-wise powers conferred upon the county.

There is nothing whatever which would prohibit the county from employing an attorney to handle the legal matters imposed upon the county arising out of the exercise of the municipal-like functions which Los Alamos County is empowered to exercise. However, the employment of any such attorney would be subject to the limitation that the payment for such services would have to be made out of the general funds of Los Alamos County, realized from the exercise of its municipal powers and functions, and not out of the general funds of the county.

I trust that this fully answers your inquiry.