

Opinion No. 53-5752

May 13, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Edward M. Hartman State Comptroller Office of State Comptroller Santa Fe, New Mexico

{*152} This is in reply to your request for an opinion by this office upon Chapter 89 of the 1953 Session Laws, which was enacted as Senate Bill 134 of the Twenty-First Legislature of the State of New Mexico, and which amended § 17-106, New Mexico Statutes Annotated, 1941 Compilation, as amended, and Chapter 73 of the 1953 Session Laws, which was enacted as House Bill 82 of the Twenty-first Legislature of the State of New Mexico, which was an amendment to § 44-105 of the New Mexico Statutes Annotated, 1941 Compilation, as amended.

The question which you submit is as follows:

Does the amendment to § 44-105, which provides for a salary of \$ 3,000.00 per annum for juvenile court attorneys, increase the amount specified in § 17-106, for each of the counties mentioned therein, as their share to be contributed for the payment of the expenses of the offices {*153} of the district attorneys, or is the \$ 3,000.00, stated above, included in the sums stated in § 17-106?

Section 44-105, as amended (1953), supplements legislation creating the office of Juvenile court attorney and is a specific appropriation of money to be paid for the fulfillment of the duties of this office. This also provides for the manner of payment of this salary in the following manner:

"Payable out of the court funds of the respective counties of the state in the same manner and in the same proportions as the said counties now contribute to the payment of the salaries of the district attorneys."

Section 17-105, as amended (1953), provides that the salaries of district attorneys, their assistants and stenographic help shall be paid by the state out of funds appropriated and amounts remitted by the counties for that purpose in the state treasury, except those reserved for the payment of interest upon the public debt.

It is to be noted that the 1953 amendment to § 17-105, as the 1951 amendment, did not include any specific amount to be paid by the state toward such salary as did the 1945 amendment and the original enactment appearing as Laws 1913, Chapter 54, § 3, and Laws 1924, Chapter 120, § 4.

Section 17-106, as amended by the Twenty-first Legislature in 1953, appears as follows:

"17-106. The several counties in the state shall respectively contribute to the payment of the salaries of the district attorneys, juvenile attorneys, assistant district attorneys, and stenographic help for the district attorney, per annum, as follows: . . ."

It is to be noted that the juvenile attorneys appear in this section as having been included in the computation of the share the counties are to contribute. It is to be noted that the inclusion of juvenile attorneys in this computation was accomplished in 1951, and that in the prior amendments of 1949, 1945, 1943, 1941 et seq. juvenile attorneys are not included.

Construing these sections as they appear, it is our opinion that § 17-106 providing for the amount each county should contribute is the total amount required of the county for district attorneys, juvenile attorneys, assistant district attorneys and stenographic help, and that this amount cannot be increased in this classification. It is further felt that § 44-105, by stating that the salary of the juvenile attorney shall be paid in the same manner and in the same proportion as the counties now contribute to the salaries of the district attorneys, refers and is a part and parcel of § 17-106 and is to be considered with it and not as an additional sum to be applied above those sums stated therein.

We trust this answers your request.

By: William J. Torrington

Assist. Attorney General