

Opinion No. 56-6349

January 9, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. C. C. Chase, Jr., District Attorney, Third Judicial District, Las Cruces, New Mexico

You have requested the opinion of this office as to whether or not a municipality may issue revenue bonds to be paid from the proceeds of municipal gasoline collections for more than an eleven year period. You state that the municipality does not intend to use proceeds for the purchase of special assessment certificates or bonds under the provisions of Chapter 122, Laws 1947, as amended.

The first question presented is whether Section 14-43-6, N.M.S.A., 1953 Compilation, which provides as follows:

"All such license taxes so collected within the limits of any municipality shall be paid into the municipal treasury to be used for general municipal purposes **or for any special purpose in the discretion of the governing authorities of the municipality.**"
(Emphasis Ours.)

is sufficient authority for the issuance of revenue bonds. Although the language used is not the general type of authority ordinarily given municipalities to issue revenue bonds, we are unable to say that the broad language emphasized in the above quotation may be limited to exclude the issuance of revenue bonds by the mere failure of the Legislature to specify with particularity this power.

The next question presented by your request is whether the authority we above determined to exist, is limited by Sections 14-46-7 through 14-46-13, N.M.S.A., 1953 Compilation, originally enacted as Chapter 122, Laws of 1947. This Act in general permits a municipality to create a special street improvement fund into which the municipality may pay any designated portion of gasoline tax collections, to be used as a revolving fund in the finance of street improvement projects within the municipality. This Act then provides that such fund may be used to purchase special assessment certificates or bonds which have been issued to pay for street improvements assessed against property owners. The purpose of the Act is obviously to provide additional security to persons who may be interested in purchasing assessment certificates or bonds. A municipality may only pledge for this purpose, a maximum of eleven years revenue from gasoline taxes.

Inasmuch as this entire latter Act is inseparably linked with the furnishing of security for special assessment street improvement projects, we do not feel that it can be said to limit the general authority of municipalities to issue revenue bonds against gasoline tax

receipts except where the same are to be used to secure such assessment certificates or bonds.

Therefore, the municipality in question may issue its revenue bonds in anticipation of gasoline tax collections for a period in excess of eleven years, and without regard for the provisions of Sections 14-46-7 through 14-46-13, N.M.S.A., 1953 Compilation, providing such bonds are not to be used for the purpose described in those sections.

By: Walter R. Kegel

Assistant Attorney General