

## **Opinion No. 57-140**

June 18, 1957

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Joel B. Burr, Jr., Assistant Attorney General

**TO:** Mr. Frederic G. Comstock, State Budget Director, Santa Fe, New Mexico

### **QUESTIONS**

#### QUESTIONS

May the budgets for the Insurance Board and the Superintendent of Insurance be legally combined into one (1) budget called the Superintendent of Insurance and Board?

#### CONCLUSION

Yes.

### **OPINION**

#### ANALYSIS

Section 58-2-1, N.M.S.A., 1953 Compilation, enacted in 1924 created a Department of Insurance within the Corporation Commission and designated the Superintendent of Insurance as its chief officer. The Corporation Commission was given state control and supervision of insurance rates and rate practices and all of the records pertaining to rates and rate practices.

The State Auditor was directed by Section 58-2-4, N.M.S.A., 1953 Compilation, to issue warrants on the State Treasurer upon vouchers approved by the chairman of the Corporation Commission for the payment of expenses, including salaries for the operation of the Insurance Department, to be paid out of a fund known as the "Insurance Fund" established in the same Act.

However, in 1947 control and supervision of the Insurance Department was transferred to the State Insurance Board which was to consist of the three Corporation Commissioners and the Superintendent of Insurance as its secretary. The chairman of the Corporation Commission was designated chairman of the Insurance Board. Warrants were to be issued on the State Treasurer upon vouchers approved by the chairman of the Board for the payment of salaries and expenses of the Board to be paid out of the "Insurance Fund". (See Section 58-3-1 through 58-3-9, N.M.S.A., 1953 Compilation.)

The Insurance Department and the Insurance Board have in the past operated under two separate budgets. However, the State Budget Director informs us that his office is in the process of streamlining the accounting for the Corporation Commission and that it would be beneficial from an administrative standpoint to combine the two budgets into one to be known as the "Superintendent of Insurance and Board."

After a careful study of the history of the legislation creating the Department of Insurance and the Insurance Board and of the specific statutory provisions relating thereto, it is the opinion of this office that there would be no legal obstacle to the combining of the two budgets into one to be known as the "Superintendent of Insurance and Board." We are prompted to this conclusion by virtue of the following consideration; The funds used for the maintenance of both the Insurance Board are derived from the same source, i. e., the "Insurance Fund", and vouchers issued by both the Insurance Department and the Insurance Board on the "Insurance Fund" must be approved by the chairman of the Insurance Board. Also, all employees of both the budgets report to the Superintendent of Insurance who is directly responsible to the Insurance Board.

In the absence of specific statutory prohibition, and in the interest of sound and efficient accounting procedures, we hold that the budget of the Insurance Department presently denominated as "Superintendent of Insurance" and that of the Insurance Board denominated as "Insurance Board" may be legally combined into one budget to be known as "Superintendent of Insurance and Board."