

## Opinion No. 59-54

June 2, 1959

**BY:** FRANK B. ZINN, Attorney General

**TO:** Major General John P. Jolly Adjutant General Santa Fe, New Mexico

Employees of a conservancy district are entitled to fifteen days military leave and pay each year.

### OPINION

{\*83} This is written in reply to your recent request for an opinion on the following question:

Is a conservancy district required to pay its employees salaries during a fifteen day period of active duty training as members of the National Guard or the Army, Navy or Air Force Reserve?

It is my opinion that a conservancy district must pay its employees while serving on active duty during a military leave.

The law governing in this opinion is compiled at Section 9-9-10, N.M.S.A., 1953 Compilation:

"That all state, county and municipal employees who are members of organized units of the army or air national guard or army, air force, navy, or marine reserves, shall be given not to exceed fifteen [15] days military leave with pay annually when they are ordered to active duty training with such organized units, such leave to be in addition to other leave or vacation time with pay to which such employees are otherwise entitled."

By Attorney General's Opinion No. 5762, dated June 10, 1953, it was held:

"The Legislature has it within its power to set up a separate class and if the Legislature of this state should deem the services of the state of such value as to require attendance of employees of the state, the counties and municipalities to attend and participate in active military duty for a stated period then they have it within their power to do so."

With reference to the status of an employee of a conservancy district, your attention is directed to Section 75-28-9 (2) which provides:

"Thereupon the district shall be a political subdivision of the state of New Mexico and a body corporate with all the powers of a public or municipal corporation shall have power to sue and be sued, to incur debts, liabilities and obligations, to exercise the right of

eminent domain and of taxation and assessment as herein provided, to issue negotiable bonds; and to do and perform all acts herein expressly authorized, and all acts necessary and proper for carrying out the purposes for which the district was created and for exercising the powers with which it is invested."

It is my opinion that employees of a political subdivision of the state of New Mexico having the powers of a municipal corporation are employees within the legislative contemplation as manifested in Chapter 70, Section 7, Laws 1953 and the title thereto.

Hilton A. Dickson, Jr.,

Assistant Attorney General