

## **Opinion No. 63-125**

September 23, 1963

**BY:** OPINION of EARL E. HARTLEY, Attorney General

**TO:** Mr. G. Jennings Jarvis Administrative Officer State Soil Conservation Committee P. O. Box 786 University Park, New Mexico (88070)

### **QUESTION**

#### QUESTIONS

1. Is it necessary for a soil and water conservation district to obtain approval of the State Board of Finance prior to selling equipment donated to it by the Soil Conservation Service?
2. Is it necessary for a soil conservation district to obtain prior approval of the State Board of Finance prior to selling equipment purchased with its own funds?

#### CONCLUSIONS

1. Under most circumstances, yes. See Analysis.
2. Under most circumstances, yes. See Analysis.

### **OPINION**

#### **{\*282} ANALYSIS**

Soil Conservation Districts are formed under and governed by the provisions of the Laws of 1937, Chapter 219 (§ 45-5-1 et seq.), as amended.

{\*283} A soil conservation district is an agency of the State of New Mexico, and is specifically given authority to accept and reject donations of money, services or material, and to use or expend them in carrying on its operations.

It is also given authority to sell, lease or otherwise dispose of its property or interest therein in furtherance for the purposes and provisions of the Act.

Subsequent to the enactment of the applicable legislation concerning such districts, the legislature enacted the Laws of 1943, Chapter 128 (§ 6-1-8) as amended, and Laws of 1961, Chapter 100 (§ 6-7-1.1) which in substance requires approval of the State Board of Finance before any property can be sold by a state agency or institution, subject to certain exceptions set out in the statutes.

Insofar as soil conservation district does have power of sale of its assets, this power is subject to regulation by the legislature, and the legislature has by its enactments, regulated the sale of property of all state agencies and institutions, (Opinion Nos. 6388-56-353, 209-57-195, 209-57-308), unless it appears that the legislature has specifically exempted an agency or institution from the operation of § 6-1-8. (Opinion No. 149-57-215).

Insofar as soil conservation districts are concerned, no such intent is found in the laws.

However, the laws regulating the sale of property of a state agency do provide for certain exceptions, and property having a value of less than fifty dollars, if the provisions of § 6-1-7.1 are complied with, may be sold or otherwise disposed of without prior approval of the State Board of Finance.

The view that is taken of the Laws of this State regarding the sale of property of an agency or institution, makes no distinction as to property acquired by donation, whether from the United States or otherwise, by purchase from appropriated funds or by purchase with funds obtained from some other source.

Unless, therefore, the property to be sold is of a value of less than fifty dollars and the provisions of § 6-1-7.1 are complied with, personal property of a soil conservation district cannot be sold, regardless of how acquired or from whom, without first obtaining approval of the State Board of Finance.

By: James V. Noble

Assistant Attorney General