

Opinion No. 67-66

May 8, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Mr. Filberto Ruiz, Jr. Director New Mexico Veterans' Service Commission P.O. Box 2324 Santa Fe, New Mexico

QUESTION

FACTS

Under Section 64-6-9, N.M.S.A., 1953 Compilation (1965 P.S.), the New Mexico Veterans' Service Commission can be appointed guardian in certain instances outlined in the Uniform Veteran's Guardian Act, Sections 64-6-1 through 64-6-22, N.M.S.A., 1953 Compilation. Under the terms of Section 74-6-9, N.M.S.A., 1953 Compilation: "If the New Mexico Veterans' Service Commission is appointed as guardian no bond shall be required other than that provided in Section 74-1-11, N.M.S.A., 1953 Compilation."

Under the terms of Section 74-1-11, N.M.S.A., 1953 Compilation (1965 P.S.), the Veterans' Service Commission is required to post a \$ 500,000 bond with the Secretary of State conditioned upon faithful discharge of the Commission's duties as executor, administrator or guardian. Section 74-1-12, N.M.S.A., 1953 Compilation (1965 P.S.), provides that the New Mexico Veterans' Service Commission must prorate the cost incurred for payment of premium of the bond required under Section 74-1-11. The Commission is authorized to determine the charge to be made against each estate, but is specifically prohibited from charging more than \$ 10.00. Section 74-1-12 also provides: "It is the intent of the legislature that this charge shall be each estate's share in the cost of the bond which the veterans' service commission will post as heretofore provided."

QUESTION

Since 74-1-12 authorizes the Commission to charge each estate the share of the bond premium required by Section 74-1-11, may the Commission use the funds appropriated under Section 74-6-9, specifically for bond premium for other line items?

CONCLUSION

No.

OPINION

{*98} **ANALYSIS**

Chapter 2, Laws of 1967, Special Session, appropriates to the Veterans' Service Commission money for payment of salary of the director and money for payment of other salaries and expenses. The legislature has also specifically appropriated money for the following: "Bond premium (Section 74-6-9) \$ 4,550."

It is the opinion of this office that the \$ 4,550 appropriated by the New Mexico Legislature for a bond premium must be used for that purpose. Section 74-1-12, does not provide for the actual payment of the cost of the bond premium. Section 74-1-12 is merely a provision by which the Veterans' Service Commission may offset the cost of the bond premium.

Section 74-1-12, N.M.S.A., 1953 Compilation (1965 P.S.) also specifically provides that the charge made against each estate to help pay the cost of the bond premium must be paid directly to the General Fund of the State of New Mexico. Because of this, the money acquired from each estate could not be used to purchase a bond. Therefore, the line item appropriation of \$ 4,550 to the Veterans' Service Commission for purchase of the bond premium pursuant to Section 74-6-9 must be used for that bond purchase and may not be transferred to another line item.

By: Paul J. Lacy

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