

Opinion No. 67-86

June 28, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Mr. Harold G. Thompson Secretary, State Board of Finance State Capitol Building
Santa Fe, New Mexico

QUESTION

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May a portion of the 1967 Reappraisal Loan Fund be used to make obligated loans to thirteen counties presently reappraising under the 1966 Reappraisal Act.

CONCLUSION

Yes.

OPINION

{*124} ANALYSIS

Chapter 26, Laws 1966 created a "Special Reappraisal Fund" and set forth how the moneys in the fund were to be expended. The fund could be used as follows:

- "A. To pay the State's share, not to exceed fifty per cent of any reappraisal undertaking in any county; and
- B. To loan to any county in terms set by the state tax commission with the approval of the state board of finance, for a period not to exceed five years, for payment of the county share of any such undertaking, if the county is financially unable to undertake a reappraisal without such loan."

The county reappraisal programs under the 1966 Act were voluntary on the part of the counties and \$ 1,000,000 was appropriated for these programs in Section 11, Chapter 66, Laws 1966.

In 1967 reappraisal programs were made mandatory by Chapter 3, Laws 1967 (S.S.). The 1967 General Appropriation Act, Section 21, Chapter 2 (S.S.) provided \$ 700,000 for a reappraisal loan fund to finance "a county-by-county reappraisal of all real property." Section 21 also stated that the fund was to be used "to assist counties undertaking programs of reappraisal pursuant to the terms of Sections 72-2-21.5 and 72-2-21.6."

At its June 13, 1967 meeting the State Board of Finance was asked to approve a Resolution affecting thirteen counties which had undertaken a reappraisal program pursuant to the 1966 Reappraisal Act. The Resolution asked approval to take \$ 218,607 from the \$ 700,000 to meet loans still due the thirteen named counties. The Resolution reads as follows:

"BE IT RESOLVED that the State Tax Commission be permitted to make the balance of payments of monies due to be loaned to the various counties from the special loan fund established by Chapter 2, Laws of Special Session of 1967 instead of the Special Reappraisal Fund established by Chapter 26, Laws of 1966."

The problem seems to arise out of the fact that Chapter 26, Laws 1966 permitted payment by the State as **grants** up to fifty percent of the reappraisal undertaking, not just fifty percent of the \$ 1,000,000 appropriated for reappraisal programs. Since the \$ 1,000,000 was insufficient to meet the cost of the voluntary reappraisal programs, more money was committed than is available to meet such commitments from the 1966 appropriation.

Since the 1967 Reappraisal Act states that the Reappraisal Loan Fund can be used to assist counties undertaking programs of reappraisal pursuant to Sections 72-2-21.5 and 72-2-21.6, supra, Laws 1966, we see no objection to the use of part of the 1967 reappraisal appropriation for obligated **loans** to the thirteen counties mentioned in the Resolution -- which counties are now in the process of making a reappraisal. The loans are to be made under the terms of existing contracts. None of the moneys in the \$ 700,000 Reappraisal Loan Fund can be used for grants. The 1967 Reappraisal Act makes no provision for grants.

Use of some \$ 218,607 from the \$ 700,000 fund does not require Board of Finance approval. The contracts under which the thirteen counties in question are reappraising have already been approved by the State Tax Commission and the State Board of Finance.

By: Oliver E. Payne

Deputy Attorney General