

Opinion No. 68-40

April 15, 1968

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Merrill B. Johns, Jr. State Treasurer State Land Office Building Santa Fe, New Mexico

QUESTIONS

FACTS

Section 11-2-18,A, N.M.S.A., 1953 Compilation provides in part as follows:

"Deposits of public moneys may be secured by . . . bonds of any county of this state, or any of the legal subdivisions thereof, including drainage or irrigation district bonds **on which all interest due has been paid for the five [5] years immediately preceding the acceptance thereof as security for any deposit; . . .**" (Emphasis added)

Does the underlined phrase pertain to all securities mentioned in the excerpt or to only drainage or irrigation district bonds?

CONCLUSION

To only drainage and irrigation bonds.

OPINION

{*72} ANALYSIS

It is fundamental that a statute must be construed according to its plain meaning. If the underlined portion of Section 11-2-18 A, supra, referred to bonds of counties and other political subdivisions other than drainage and irrigation districts, a comma would be found just before the underlined excerpt. In the absence of such comma, we must conclude that the underlined portion of Section 11-2-18 A, supra, refers only to drainage and irrigation district bonds.

It is interesting to note that the underlined portion of Section 11-2-18 A, supra is the same as Section 2, Chapter 24 of the Laws of 1934. This would seem to eliminate any argument that a comma was omitted by a printer or proofreader error. If this had been the case in 1934, certainly our legislature would have corrected the error either in 1939, 1957 or 1965 when it re-enacted the above section to the New Mexico Statutes.

Last of all it should be pointed out that the State Board of Finance has the duty to approve or disapprove all securities delivered as security for state money. The State

Board of Finance may in its discretion refuse to accept any bond on which all the interest has not been paid in the last five years.

By: Gary O'Dowd

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