

## Opinion No. 21-3151

October 14, 1921

**BY:** HARRY S. BOWMAN, Attorney General

**TO:** Mr. A. G. Whittier, State Traveling Auditor, Santa Fe, New Mexico.

### **Distribution Interest and Penalties on Delinquent Drainage Assessments.**

#### **OPINION**

{\*90} In reply to your letter of the 11th instant, calling attention to section 2, Chapter 173, Laws 1921, amending section 22, Chapter 41, Laws 1919, providing for the disposition of interest and penalties {\*91} on delinquent drainage district assessments and asking if such penalties and interest when collected should not be distributed in accordance with the 1921 act, I wish to advise:

This office has heretofore ruled that such penalties and interest should be distributed to the drainage district funds even prior to the enactment of the 1921 law.

The provisions of section 22, Chapter 41, Laws 1919, and the section which it superseded (section 30, Chapter 22, Laws 1917), while providing that revenue laws of the state for the assessment, levying and collection of taxes, including the enforcement of penalties and forfeitures for delinquent taxes shall be applicable to the levy and collection of drainage assessments, does not provide that the taxes, penalties or interest shall be distributed in accordance with the said revenue law. Therefore, by excluding from the provisions of the section the distribution of said funds, it is clear that it is not the intent of the legislature that the funds shall be distributed in accordance with the general revenue act.

It is therefore our opinion that such penalties and interest should be credited to the district funds in proportion to the amounts thereof as certified by the board of directors of such districts.

The distribution above suggested should apply to all delinquencies heretofore collected.