

Opinion No. 31-43

February 2, 1931

BY: E. K. Neumann, Attorney General

TO: Mr. J. M. Lujan, State Comptroller, Santa Fe, New Mexico. ATTENTION Mr. F. R. Gould.

{*39} In your letter of January 31st, you inquire if the State Comptroller makes an audit of the Las Vegas Land Grant if it is possible for such official to collect from the Land Grant Board the necessary costs in making said audit.

Your authority for making the audit is derived from section 134-507 New Mexico Statutes Annotated, 1929 Compilation and other sections cited in our letter to you of recent date, regarding this matter.

The section referred to as giving the State Comptroller and his assistants the power and authority to make audits goes on and provides that the Comptroller may make the audit or examination when he deems necessary, or when ordered by the Governor. Also when petitioned by a reasonable number of taxpayers {*40} affected or when the governing board of any political subdivisions mentioned in such section petitions the comptroller for an audit.

This section further provides that when any county, incorporated city, town or village, school district, drainage district, irrigation district, or other official, institution, governing board or corporation of a public nature shall cause an audit to be made as herein before provided, such audit shall be paid for upon a basis of payment to be determined by the Comptroller. The Act further provides that the costs of such audit shall be paid for by the State and political subdivision audited in direct proportion to the amount of the State funds involved in said audit. It being the intention that the costs accruing to this state shall not exceed the proportionate amount in which the state may be involved.

From a consideration of said section 134-507 it would appear that costs of making the audit can only be assessed to the subdivision audited when the making of such audit has been caused by such subdivision.

In the matter at hand the audit has not been caused to be made by the Las Vegas Land Grant. It is being made by you upon your own initiative or upon the order of the Governor and it is our opinion that under the circumstances, your department must bear the expense.

By Frank H. Patton,

Asst. Atty. General