

Opinion No. 37-1812

November 4, 1937

BY: FRANK H. PATTON, Attorney General

TO: E. C. Hollinger Extension Soil Conservationist State College, New Mexico

{*179} This is to acknowledge receipt of your letter of November 2, 1937, requesting an interpretation of Chapter 222, New Mexico Session Laws of 1937. You wish to know particularly from what funds the administrative expenses incurred in creating a Curry County Wind Erosion District must be paid. Further, {*180} if such expenses may be paid by borrowing from the revolving fund set up in this District.

On November 2, I wrote an opinion at the request of Mr. F. E. Sieran, Treasurer, Curry County Wind Erosion District, covering this question.

However, your letter called my attention to the matter which I think needs further discussion. This opinion is therefore supplemental to that written by me on November 2. In that opinion, I held that the administrative expenses of whatever form or character could not be paid out of the revolving fund. I likewise suggested that the matter be handled by a transfer of funds from one budget item to another, as provided by Chapter 233, New Mexico Session Laws, 1937. However, I find that in Section 8 of the Act, among other things, contains the following provision:

"The expense of carrying out the provisions of this Act shall be paid by said Board of County Commissioners out of the general funds of said County, such funds to be reimbursed by such Wind Erosion District after the district has been organized and funds have been received by the County Treasurer for such district under the provisions of this Act."

This, I think, specifically authorizes all administrative expenses to be paid out of the general funds of the County, without the necessity of a transfer of budget items provided for in Chapter 233. This is manifest, when it is apparent from the Act itself that in all likelihood, the ad valorem tax, authorized by Section 12, would not be available for more than a year after effective date of the Act.

However, I am still of the opinion that such money must come from the general funds of the County and not the revolving fund. In my opinion, the Act shows a legislative intent throughout that the revolving fund must be kept intact for the sole purpose of work upon lands within the District and cannot be diverted for any other purpose.

Trusting that this answers your questions, I am

By: RICHARD E. MANSON,

Asst. Atty. Gen.