

Opinion No. 43-4322

June 23, 1943

BY: EDWARD P. CHASE, Attorney General

TO: James R. Scott, M. D., Director, Department of Public Health, Santa Fe, New Mexico

I have your request for an opinion dated June 22, 1943. You ask the following questions:

1. Whether the Board of County Commissioners may withdraw its appropriation in support of the District Health Officer's salary and expenses, and to divert such sums to the support of a local County Health Officer.
2. Whether an individual county may employ a County Health Officer in addition to the District Health Officer, should such county see fit to include in the county budget the sums necessary for the salary and travel expense of the County Health Officer to serve the individual county, such sums being in addition to the county contribution for salary and expenses of the District Health Officer.

In answer to your first question, it is my opinion, in view of the mandatory provisions of Section 71-206 of the New Mexico 1941 Compilation, that a county may not withdraw its appropriation in support of the District Health Officer's salary and expenses, as provided for under such section.

In answer to your second question, I call your attention to the fact that Chapter 131 of the Session Laws of 1935 expressly abolished the office of County Health Officer, as formerly provided by Section 110-312 of the 1929 Compilation.

However, I call your attention to the provisions of Section 71-211 of the New Mexico 1941 Compilation wherein it is provided that the Board of County Commissioners of such county, with the approval of the Director of Public Health, may employ such additional persons as the Director of Public Health shall designate, and their compensation and expenses shall be paid from the County Health Fund upon vouchers drawn by the County Health Officer. It is further provided that the appointment and dismissal of all persons heretofore and hereafter employed hereunder shall be governed by the Merit System rules promulgated under the Federal Social Security Laws as adopted by the State Board of Public Health.

The results arrived at in this opinion are supported by the Attorney General's opinions at Pages 108 and 114 of the 1935 and 1936 Report of the Attorney General.

Hoping that the above fully answers your questions, I remain

By HARRY L. BIGBEE

Asst. Atty. General