

**Opinion No. 44-4581**

September 21, 1944

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. C. R. Sebastian, State Comptroller, Santa Fe, New Mexico

We are in receipt of your letter of September 19, 1944 in which you state that in several counties wherein the depository securities of the county are held in safety deposit boxes of the banks, that it has been the practice of the banks to charge the counties with the burglary and robbery insurance on the safety deposit boxes. In view of this situation, you ask our opinion as to whether such a payment by the county commissioners would be legal since they already pay the rental on the safety deposit boxes.

First, it appears to me that certainly the county commissioners, who are given general power to deal with county property and enter contracts, would have the power to insure property in the custody of the county, even when acting as a county board of finance. Further, I can see no difference whether the county pays rental on a safety deposit box plus insurance or merely rental, since if the county did not pay for the insurance and the bank did, their rental would necessarily be higher.

The only possible limitation that I can find in the statutes would be Section 7-220 of the 1941 Compilation which vests in the state board of finance the power to regulate the safekeeping of bonds or other securities delivered by any bank. Whether or not this section amounts to a limitation will, of course, depend upon what regulations the board of finance has made.

Trusting the foregoing fully answers your question, I am

By ROBERT W. WARD,

Asst. Atty. General