

Opinion No. 68-11

January 29, 1968

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Honorable Edward Junker, Jr. State Representative Legislative-Executive Building
Santa Fe, New Mexico

QUESTIONS

May a municipality issue its Industrial Revenue bonds for the purpose of relocating property of the Inter-Tribal Indian Commission, a state agency, and to create thereon an Indian Memorial Park where various Indian handicrafts will be made?

CONCLUSION

No.

OPINION

{*21} ANALYSIS

The Inter-Tribal Indian Association was a non-profit corporation. In 1939 the legislature enacted Section 73-31-1, N.M.S.A., 1953 Compilation which purported to make it an official agency of the State of New Mexico for the purpose of encouraging the preservation and development of Indian Arts and Crafts and traditional rites and ceremonies. In 1955 the New Mexico Commission on Indian affairs was created by Section 73-31-2, N.M.S.A., 1953 Compilation (P.S.). Its duty and function was to investigate, study and consider the entire subject of Indian conditions and relations within the state.

In 1967 the powers of the Commission were enlarged to permit it to acquire and dispose of real property; construct, improve, repair and maintain buildings, structures, improvements, grounds and equipment; to acquire any project or projects and to own, operate and maintain such project; to accept grants; to borrow money and to issue bonds; and to do all things necessary to carry out any of its powers and purposes so long as the state was not obligated. The purposes of the Commission remained unchanged except for the additional purpose of recording and disseminating to the public various Indian legends. Section 73-31-1.1, N.M.S.A., 1953 Compilation (P.S.).

Our industrial revenue bond act is compiled as Section 14-31-1 through 14-31-13, N.M.S.A., 1953 Compilation (P.S.). It authorizes a municipality to issue industrial revenue bonds for the purposes of acquiring, owning, leasing or selling **projects** for the purpose of inducing manufacturing, industrial or commercial enterprises to locate or expand in this state. By definition "project" as used in the act is the acquisition by or for

a New Mexico Corporation of the {*22} assets or stock of an existing business or corporation and to be located within or near the acquiring municipality.

The section does not authorize the issuance of Industrial revenue bonds for the purpose of acquiring any assets, stock, etc., of a state agency or commission. It does not authorize the issuance of bonds for the purpose of financing a new business.

It is our conclusion that the desired relocation of the Inter-Tribal Indian Ceremonial Association property or creation of an Indian Memorial Park cannot be accomplished by the issuance of Industrial revenue bonds but must be accomplished through the powers of the Commission enumerated in Section 73-31-1.1, supra. or by legislative appropriation, and then only to the extent authorized by its designated purposes.

By: James V. Noble

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