

## Opinion No. 52-5474

January 23, 1952

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Honorable Bertrand B. Prince District Attorney First Judicial District Santa Fe, New Mexico

{\*191} This is in reply to your letter of January 8, 1952, in which you request an opinion as to whether Chapter 90 of the Laws of 1949, which relates to County Purchasing Agents, is constitutional, specifically the provision as to the County Purchasing Agent, and whether this provision meets the requirements of Section 16, Article 4 of the Constitution of New Mexico.

Your second question is whether or not the County Clerk may proceed as usual to procure the printed ballots for the coming primary election, as authorized by Section 56-306 of the New Mexico Statutes, 1941 Annotated.

As to your first question my opinion is that the provision of the 1949 New Mexico Session Laws, Chapter 90, relating to County Purchasing Agents, is constitutional. The New Mexico Supreme Court, in the case of State v. Miller, 33 N.M. 200, held that it is not necessary that the details of a statute shall be embraced in its title, but only that its contents shall be germane thereto. It is true that the title of Chapter 90 of the Laws of 1949 makes no mention of or reference to the appointment of a County Purchasing Agent specifically, but the fact remains that the title does refer to county officers and the Purchasing Agent is a county officer by appointment of County Commissioners.

It is my opinion that the contents of this statute are germane to the title. The case of State v. Ingalls, 18 N.M. 211, held that the generality of a title is no objection to it so long as it is not made a cover to legislation incongruous in itself, and which by no fair intendment can be construed as having a necessary or proper connection. Also, in the case of Lynch v. Chase, 55 Kan. 367, 40 P. 666, the Court said:

"It is not necessary that the title should be an abstract of the entire act, but it is deemed to be sufficient if the title fairly indicates, though in general terms, its scope and purposes. Everything connected with the main purpose and reasonably adapted to secure the objects indicated by the title may be embraced in the act, without violating the constitutional inhibition."

As to your second question hereinabove set out, Section 56-306 N.M.S.A. 1941 makes it the mandatory duty of the County Clerk to procure the printed ballots for the election, which in this case will be the next primary election this year. However, Chapter 90 of the 1949 New Mexico Session Laws supersedes Sec. 56-306 N.M.S.A. 1941 and makes it mandatory that all county purchases in first class counties be made by the Purchasing Agent.

In my opinion, Chapter 90, Laws of 1949, makes it mandatory on the County Clerk to make all purchases for her office through the Purchasing {\*192} Agent, including the procurement of the printed ballots for the 1952 primary election. The controlling mandatory language of Chapter 90 of the 1949 New Mexico Session Laws is as follows:

". . . as County Purchasing Agent and shall have charge of all budget control records and purchases for and on behalf of the county and shall act as custodian of county property."

I trust that this fully answers your inquiries.