

## Opinion No. 55-6181

June 3, 1955

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mrs. Natalie Smith Buck, Secretary of State, State Capitol Building, Santa Fe, New Mexico

In your letter of May 11, 1955, you ask whether statutory and constitutional requirements of publication of proposed constitutional amendments four (4) times by your office and twice by each Board of County Commissioners would be satisfied if the amendments to be voted on in the forthcoming Special Election were published twice independently in each county by your office and twice in each county in combination with the proclamation required of the County Commissioners, with your office, in the latter instance, to pay only for the publication of the text of the amendments.

The pertinent constitutional and statutory requirements are as follows:

Article XIX, Section 1, Constitution of New Mexico:

"The secretary of state shall cause any such amendment or amendments to be published in at least one newspaper in every county of the state, where a newspaper is published once each week, for four consecutive weeks, in English and Spanish when newspapers in both of said languages are published in such counties, the last publication to be not more than two weeks prior to the election at which time said amendment or amendments shall be submitted to the electors of the state for their approval or rejection . . ."

Section 3-7-4, 1953 Compilation:

"Whenever a proposed constitutional amendment or other question is to be submitted to the electors of the state at large, the secretary of state shall, not less than thirty (30) days before the election at which the same is to be submitted, certify the same to the county clerks and the board of county commissioners shall include the same in the proclamation to be issued as provided for in this act, and shall cause the full text of each such constitutional amendment, or other question to be published in accordance with Article XIX, Section 1 of the Constitution of New Mexico."

Section 3-3-1, 1953 Compilation:

"The board of county commissioners shall, at least fifteen (15) days before the election by proclamation and publications as hereinafter provided, give notice of the election, the objects thereof, . . . Said proclamation shall be published two (2) times prior to the date of election in a legal newspaper, as defined by section 1, chapter 43, Laws of 1929 (Section 113-201, 1929 Compilation) the last publication to be not more than seven (7)

days preceding the election . . . . Where the board of county commissioners deems it expedient such notice shall be printed in English and Spanish."

It has previously been held by this office that proposed constitutional amendments must be set forth in full in the election proclamation published by the Board of County Commissioners. Opinion No. 5244. Since the object of both the Constitution and the statutes is to provide adequate notice to the electorate of the proposed amendments, and since four (4) publications in each county would obviously afford such notice, we can see no objection to such practice. In fact, the provision of Section 3-7-4, supra, as added by the 1953 amendment, referring to publication in accordance with the Constitution, would tend to indicate that such a practice was contemplated by the Legislature.

One item must be considered in negotiating with county commissions concerning this matter. The Constitution requires publication in Spanish in counties where a Spanish newspaper is published. Section 3-3-1, does not require publication in Spanish by the County Commissioners except where they deem it expedient. Agreement should be reached with Board of County Commissioners in all counties where Spanish newspapers are published for publication of the proclamation of election in Spanish in such counties.

By: Walter R. Kegel

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