

Opinion No. 61-114

November 6, 1961

BY: OPINION OF EARL E. HARTLEY, Attorney General Oliver E. Payne, Assistant Attorney General

TO: Mr. Albert Gonzales Chairman, Board of County Commissioners, County Courthouse, Santa Fe, New Mexico

QUESTION

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Would the Board of County Commissioners of Santa Fe County be justified in postponing an election on a bond issue for a juvenile detention home until the next primary election on the grounds of shortage of funds to conduct such an election at the present time?

CONCLUSION

No.

OPINION

ANALYSIS

Section 15-49-7, N.M.S.A., 1953 Compilation (P.S.), which is determinative of the answer to your question, provides as follows:

"Whenever a petition signed by not less than two hundred qualified electors of any county in this state shall be presented to the board of county commissioners, asking that a vote be taken on the question or proposition of building a court-house, **jail**, bridge, hospital or public library, setting forth in general terms the object of such petition and the amount of bonds asked to be voted for, **it shall be the duty of the board of county commissioners** of such county to which said petition may be presented within ten days after the presentation, **to call an election to be held within sixty days thereafter in such county**, and shall give notice of such election by publication once a week for at least three consecutive weeks in any newspapers published in such county, which notices shall set forth the time and place of holding such election, the courthouse, jail, bridge, hospital or public library proposed to be built and which bonds are to be voted for. . . ." (Emphasis added).

Other procedural provisions and limitations follow the above-quoted portion of Section 15-49-7, supra, including the method of initiating such a bond issue election when the particular proposition has been defeated within the preceding two years. This provision

presents no obstacle inasmuch as Santa Fe County has had no special election on the issuance of bonds for construction of a juvenile detention home within two years.

The language contained in Section 15-49-7, supra, makes it clear that when a petition signed by the requisite number of qualified electors of the county is properly presented to the Board of County Commissioners asking that a vote be taken on the proposition of building a jail, the Board has a **mandatory** duty to call an election to be held within the specified time limits. We do not feel it can seriously be urged that a juvenile detention home is not a jail for purposes of a bond issue election under Section 15-49-7, supra. Purpose, not nomenclature, is the determining factor and each serves as a place of supervised confinement for those charged or convicted of crime, one is simply for adults, the other for juveniles.

Recognizing that money for a bond election may be in short supply at certain times, we would suggest the use of volunteer election officials. We find no legal objection to the use of unpaid officials so long as such persons are otherwise qualified as prescribed by law. See Section 3-6-9, N.M.S.A., 1953 Compilation (P.S.).