

## Opinion No. 67-110

October 4, 1967

**BY:** OPINION OF BOSTON E. WITT, Attorney General

**TO:** W. P. Cater, Chairman State Soil & Water Conservation Commission Room 301  
Old Capitol Building Santa Fe, New Mexico

### QUESTION

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Are the Soil and Water Conservation Districts for New Mexico exempt from the Public Purchasing Act?

#### CONCLUSION

No.

### OPINION

#### {\*159} ANALYSIS

The last session of our legislature enacted a new Public Purchasing Act. Section 6-5-21 provides that:

**All Purchasing for local public bodies shall be performed by a central purchasing office** designated by the governing authority of the user, **except as otherwise provided in the Public Purchases Act.** (Emphasis added.)

"Local public body" is defined as meaning:

every political subdivision of the state created under either general or special acts, which receives or expends public money from whatever source derived, including but not limited to . . . drainage conservancy, irrigation or other districts. . . .

The exemptions from the Public Purchases Act are found in Section {\*160} 6-5-34, N.M.S.A., 1953 Compilation. State Soil and Water Conservation Districts have not been exempted from the provisions of the Public Purchases Act.

The question would be at an end here if it were not for the two provisions of the Soil and Water Conservation District Act which are relevant here. The first relevant provision is in Section 45-5-59, N.M.S.A., 1953 Compilation which provides that a Soil and Water Conservation District is a governmental subdivision of the state. The other provision is

subsection H of Section 45-5-60, N.M.S.A., 1953 Compilation. This subsection provides that:

Neither the State Purchasing Act nor any other statute, except the Soil and Water Conservation District Act shall apply to the acquisition, use or disposition of district property. Chapter 137, Laws 1965.

Thus, we see that the legislature has stated in a 1967 enactment that all political subdivisions must purchase pursuant to the Public Purchases Act except as otherwise provided in the Public Purchases Act, and an earlier enactment of the legislature states that Soil and Water Conservation Districts are exempt from any statute applying to the acquisition of district property. We cannot find where the legislature has set forth guidelines in the expenditure of public moneys on materials and services in the Soil and Water Conservation Act. If such districts are exempt from the Public Purchases Act, they need not follow any prescribed purchasing procedures.

All state agencies and local public bodies must follow the provisions of the Public Purchases Act when purchasing materials and services. Accordingly, if we were to find that the State Soil and Water Conservation Districts are exempt it would be the only agency or political subdivision of the state exempt from any purchasing procedures.

The chief aim of statutory construction is to arrive at true legislative intent. **Janney v. Fullroe, Inc.**, 47 N.M. 423 144 P.2d 145 (1943); **Montoya v. McManus**, 68 N.M. 381, 326 P.2d 771 (1961). All rules of statutory construction are but aids in arriving at the true legislative intent. **Bradbury & Stamm Const. Co. v. Bureau of Revenue**, 70 N.M. 226, 372 P.2d 808 (1962). Statutes are to be construed in the most beneficial way which their language will permit to oppose all prejudice to public interests. **State v. Llewellyn**, 23 N.M. 43, 167 Pac. 414 (1917). With these rules of construction in mind we believe that the following rule of statutory construction is applicable:

Where two statutes have the same object and relate to the same subject, if the later statute is repugnant to the former statute, the former statute is repealed by implication to the extent of the repugnancy, even in the absence of the repealing clause in the later act. **In re Sosa's Petition**, 74 N.M. 181, 184, 392 P.2d 13 (1954).

There is undoubtedly a repugnancy between Section 45-5-60(H) of the Soil and Conservation District Act and the Public Purchases Act. Keeping in mind that we must give a construction in the most beneficial way to protect the public interests, it is the opinion of this office that the Public Purchases Act controls. What is more in the public interest than some safeguard over the public's tax dollars? Without this construction there would be no safeguards.

Since we have concluded that the Public Purchases Act repealed by implication Section 45-5-60(H), supra, of the Soil and Conservation District Act we need not consider whether Section 45-5-60(H), supra, violates Article IV, Section 18 of the New Mexico Constitution which provides as follows:

No law shall be revised or amended . . . by reference to its title only;

{\*161} We note that Section 45-5-(60)H, supra, attempted to add an exemption to the State Purchasing Act by reference to that Act. Properly the State Purchasing Act should have been amended.

By: Gary O'Dowd

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