

Opinion No. 69-131

November 17, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General James V. Noble, Assistant Attorney General

TO: Mr. Pat F. Hanagan, District Attorney, Fifth Judicial District, County Courthouse, Roswell, N.M. 88201

QUESTIONS

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Does Section 72-1-14, N.M.S.A., 1953 Compilation, as amended, violate the requirements of Article IV, Sec. 16 of the Constitution?

CONCLUSION

No.

OPINION

{*211} ANALYSIS

Section 72-1-14, N.M.S.A., pertains to veterans ad valorem tax exemption authorized by the Constitution. Prior to 1957 the method of preparation of the list of eligible veterans by the county assessor was not specified nor was there any **specific time set out therein** requiring that the assessor assess the property of such eligible veteran without granting the exemption if the veteran failed to do so or requiring that the certificate of eligibility be presented and the fact of granting of the exemption and its character noted thereon.

The 1957 Legislature amended this section along with the others pertaining to the veterans exemptions. Insofar as Section 72-1-14, supra, is concerned the requirements above discussed were added.

The title to the amendment reads as follows:

"List of soldiers entitled to exemption -- Preparation by assessor -- Additions. --"

Article IV, Section 16 of the Constitution reads, in pertinent part:

"The subject of every bill shall be clearly expressed in its title and no bill embracing more than one subject shall be passed except general appropriation bills . . ."

The amendment deals only with the subject of the property tax exemption of veterans. There is no duality of subject matter.

The title does not specifically set forth all of the matters included in the body of the enactment, including the provisions above discussed. This is not necessary and the enactment of the above provision is not in our opinion clearly unconstitutional.

We note that the time for filing a property tax rendition remains unchanged. Section 72-2-1, N.M.S.A., 1953 Compilation, as amended.

The test is set forth in **State v. Aragon**, 55 N.M. 423, 234 P.2d 358 (1951), citing **State v. Ingalls**, 18 N.M. 211, 135 P. 1177, as follows:

"The aim and necessity of this constitutional provision is apparent. The reason for its existence is a matter of history in nearly all our states. Its purposes, as outlined by Mr. Cooley, are: 'First, to prevent hodgepodge or "logrolling" legislation; second, to prevent surprise or fraud upon the Legislature by means of provisions in bills of which the titles give no intimation, and which might therefore be overlooked and carelessly and unintentionally adopted; and, third, to fairly apprise the people of the subjects 'of legislation, in order that they may have the opportunity of being heard thereon.' Cooley's Const. Lim. (7th Ed.) 205

{*212} " * * * In our opinion, the true test of the validity of a statute under this constitutional provision is: Does the title fairly give such reasonable notice of the subject-matter of the statute itself as to prevent the mischief intended to be guarded against? If so, the act should be sustained. The reason of the rule not applying to such cases, the rule itself does not apply."

The question there before the Court involved an interpretation of a penal statute and whether the word "disbursement" was sufficient to meet the above test insofar one who merely approved payment was concerned. The Court held that the title did sufficiently appraise one of the subject matter of the statute.

An early case that considered the requirement of the above constitutional provision is that of **State v. Gomez**, 34 N.M. 250, 280 P.251 (1929) wherein it was contended that a title mentioning a tax on the transfer of property and appraisal of decedent's estates was insufficient insofar as provisions authorizing a tax on inheritance was concerned. The Court held that the main purpose of the act was clearly shown by the title to be a tax on the transfer of property at death, whether an inheritance or a succession tax.

In **First Thrift and Loan Ass'n v. State**, 62 N.M. 61, 304 P.2d 582 (1956) it was contended the title of our banking statute violated the above provisions insofar as any limitation of authority of a corporation organized under general corporation laws to carry on a banking business was concerned. The title was:

"An act to define and regulate the business of banking."

The Court held the title was broad enough to cover such a limitation of the business of the general corporation since it did pertain to banking.

The amendment appears to reasonably pertain to the subject matter of the sections amended, and which were specified in the title. **State ex rel, Salazar v. Humble Oil and Refining Co.**, 55 N.M. 395, 234 P.2d 339 (1951) considered the granting of an exemption under the severance tax law. The exemption amendment was to a section of the act being amended which was not referred to in the title either by subject matter or specifically, and the Court there held that portions violated the above constitutional provisions since not germane to the sections mentioned as being amended.

We do not believe such to be the case here. The title specifically refers to the section being amended. It clearly refers to the property tax exemption authorized by constitution to be granted to veterans. It specifically refers to the certificates of eligibility. It purports to cover the entire area of veterans exemptions. Such being the case the method and time of obtaining such is germane to the title and subject matter expressed therein. It is not so hidden and so foreign as to constitute fraud or surprise. **The time of rendition was unchanged.**

Legislation is presumed to be constitutional. **Crosswaite v. White**, 55 N.M. 71, 226 P.2d 477 (1951). The amendment is not in our opinion clearly unconstitutional and the time of claiming the exemption should be observed. See Opinion No. 205, p. 317, Report of the Attorney General 1959-60.