

Opinion No. 78-04

March 3, 1978

OPINION OF: Toney Anaya, Attorney General

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TO: Ricardo M. Montoya, State Labor Commissioner, Villagra Building, Santa Fe, New Mexico 87503

SPECIAL SESSION; GOVERNOR'S PROCLAMATION; ARTICLE IV, SECTION 6;
ARTICLE IV, SECTION 15

In a special session of the legislature convened pursuant to Article IV, Section 6, the Legislature may not consider an amendment to a bill when such amendment is not related to the purpose or object specified in the Governor's proclamation.

QUESTIONS

May an amendment to a legislative bill proposing an alternative method for making wage determinations on a local rather than statewide basis be properly considered in a special session of the legislature pursuant to a governor's proclamation asking the legislature to consider the organization and the creation of a labor department?

CONCLUSIONS

No.

ANALYSIS

Article IV, Section 6 provides that:

"Special sessions of the legislature may be called by the governor, but no business shall be transacted except such as related to the objects specified in this proclamation."

OPINION

Although we find no New Mexico case law interpreting that portion of Article IV, Section 6, it is clear from the language of the provision itself, as well as from the interpretation of similar provisions by courts in other jurisdictions, that the legislature may not act upon bills which are not related to the objects or purposes specified in the governor's proclamation calling for a special session.

A "proclamation may state the purpose for which the legislature is convened in broad, general terms or it may limit the considerations to a specified phase of a general

subject. The legislature is free to determine in what manner the purpose shall be accomplished, but it must confine itself to matters submitted to it by the proclamation." **Arrow Club, Inc., v. Nebraska Liquor Control Commission**, 177 Neb. 686, 131 N.W.2d 134, 137 (1964). In item 4 of the proclamation, the only item applicable to the question here, the governor called for a special session to consider, among other matters:

"A bill relating to organization of the executive branch of state government; creating a labor department; repealing and enacting certain sections of the NMSA 1953; declaring an emergency;"

Thus, it would appear that the governor specifically limited legislative consideration to matters of reorganization or structure.

The title of Senate Bill 3, as introduced in the special session, states:

"RELATING TO ORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT: CREATING A LABOR DEPARTMENT: REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1953; DECLARING AN EMERGENCY."

Sections 1 through 15 of Senate Bill 3 relate to reorganization in that they constitute the "Labor Department Act" which provides for the creation of the labor department. Sections 16 through 29 relate to reorganization in that they generally repeal existing statutes and adopt new ones in order to change references to the old labor commission to references which correspond to the organization of the new department of labor. Sections 30 to 33 are housekeeping provisions. In deciding whether a particular bill is germane to the object or purpose of the call, it has been well stated that:

"The exact determination of what legislation is germane to a particular call will depend upon the application of reasonable judgment in each separate instance where the issue is raised, keeping in mind that the purpose of placing constitutional limitations upon the enactment of the special session is to provide notice to the public of the nature of the legislation to be considered. The test is whether the public was reasonably put on notice that legislation of the sort enacted would be considered." Sands, **Sutherland Statutory Construction**, 4th Ed., Section 5.08.

Clearly, Senate Bill 3 itself is consistent with the object or purpose of the governor's call. The proposed amendment, however, if introduced as a separate bill, would not be. Essentially, the amendment provides an alternative method for making wage determinations, effectively superceding substantive provisions of Section 6-6-6, N.M.S.A. 1953, resulting in a significant change in the policy of the state in this regard -- none of which is related to reorganization, the object or purpose of the governor's call. Under the test quoted above, the governor's proclamation provided no notice to the public that a matter of such substantive significance would be considered by the legislature at the special session.

Accordingly, since the proposed amendment could not be considered as a separate bill because of the specific restrictions in Article IV, Section 6, it should not be subject to consideration by virtue of its being introduced instead as an amendment. To permit such a procedure would obviously render the prohibitions contained in Article IV, Section 6 meaningless. Legislators could avoid the constitutional restrictions altogether by submitting matters outside the object or purpose of the governor's call as amendments to bills which were themselves proper subjects for consideration. Constitutional provisions may not be construed so to achieve absurd results or defeat their intended objectives. **State ex rel. Newsome v. Alarid**, 90 N.M. 790, 568 P.2d 1236 (1977); **Postal Finance Co. v. Sisneros**, 84 N.M. 724, 507 P.2d 785 (1973).

The proposed amendment would also be constitutionally questionable under Article IV, Section 15, N.M. Const., which provides in pertinent part, that:

". . . no bill shall be so altered or amended on its passage through either house as to change its original purpose."

This provision has been considered by the Supreme Court of New Mexico in **Blackhawk Consolidated Mines Company v. Gallegos**, 52 N.M. 74, 191 P.2d 996 (1948), which stated that the purpose of Article IV, Section 15 is ". . . solely to prohibit amendments not germane to subject of legislation expressed in title of act purported to be amended." All sections of Senate Bill 3, as submitted, clearly relate to the organization of the executive branch and the creation of a labor department. The amendment, on the other hand, to the extent that it pertains to substantive matters unrelated to reorganization, would not be germane to the subject of the bill as expressed in the title and, under the ruling in **Blackhawk Consolidated Mines Co. v. Gallegos, supra**, may be prohibited by Article IV, Section 15. Accordingly, we conclude that the proposed amendment is not subject to consideration by the legislature during the special session and, if it were to be enacted into law as a part of the "Labor Department Act", it would be subject to constitutional challenge.

ATTORNEY GENERAL

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