

Opinion No. 19-2347

August 28, 1919

BY: N. D. MEYER, Assistant Attorney General

TO: Clerk of the Board of County Commissioners, Taos, New Mexico.

Date of and Officers in Charge of Bond Election for Construction Court House.

OPINION

Confirming my telegram to you in answer to yours of August 25 relative to the submission of the proposition of the issuance of bonds in your County for the purpose of constructing a court house, and as to whether or not the proposition can be submitted at the September 16th election, and if the same election officers can legally act, we beg to state:

Section 1160 of the Codification of 1915 provides:

"All such elections as herein provided for shall be held at the usual place of voting in such county, and shall be conducted by the officers or persons provided by law for the holding of ordinary or general elections in any such county, such election to be in all respects governed by, and the result declared according to, the rules and regulations provided by law for holding ordinary or general elections."

Under the provisions of this section the submission of the proposed bond issue to the electors at the September 16th election would be perfectly proper.

However, Sec. 1159 of the Code provides that within ten days after the filing of the necessary petition to submit the question of a bond issue for the construction of a court house an election should be called and within thirty days thereafter notice of such election should be given by publication for at least three consecutive weeks in a newspaper, which notice shall set forth the time, place and purpose of the election, so in your case the only question is whether or not you now have time to comply with the provisions of this election. You will see that the County Commissioners can immediately after receiving the petition call the election and immediately thereafter proceed to give notice of the date when the election will be held, etc., but the publication must be made for at least three weeks.

There is no question but what the officers designated to act at the election to be held on September 16th can act for the purpose of the bond issue election. However, it is my opinion that you should not fail to comply with the provisions of Sec. 1159 -- that is, that the election should be called for September 16, notice given and purpose stated. For the purpose of avoiding any unforeseen difficulty, it would be well for the Commissioners to redesignate the same officers of the election to be held on

September 16 to act in conducting the election on the bond issue -- in other words, proceed as if it were a separate election but conducting it altogether on the same day and at the same polling places and by the same officers.

In my wire I called your attention to Section 10 of Article IX of the Constitution. I deem it unnecessary to enter into any explanation herein on that point. Reference to the article and section mentioned and close adherence to the provisions of the same is advised.