

Opinion No. 32-384

February 18, 1932

BY: E. K. Neumann, Attorney General

TO: Mr. Paul A. Otts, City Clerk, Artesia, New Mexico.

{*143} Your letter of February the 16th, asking for information as to the correct procedure in the appointment of a City Clerk, has been received. You refer to Chapter 84 and Chapter 85, of the Session Laws of 1931, and we can say, at once, that no conflict exists between these two Acts.

Chapter 84 gives the Mayor the right to make a nomination but such nomination is to be confirmed by a majority vote of the City Council.

Prior to the passage of Chapter 85, the City Clerk was elected. The appointive officers were a City Marshall, members of the police force, a City Attorney and such other officers as might be provided for by ordinance.

In other words, if it became necessary for additional appointive officers, then such officers could be created by ordinance and filled under the power of appointment vested in the governing body.

Chapter 85 now makes the City Clerk an appointive office. It does not deprive the Mayor of the right to nominate but the appointment must be confirmed by the Council, and, as we have heretofore stated, we think an ordinance is not necessary as this office is now upon the same basis as a city marshall, city attorney and members of the police force.

We may add, however, that if at present you have an ordinance providing for the election of a clerk, steps should be taken to amend same by making said office an appointive one.

By: Frank H. Patton,

Asst. Attorney General