

## Opinion No. 39-3107

April 18, 1939

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Mr. G. C. Street, Jr., Acting Regional Director, Federal Emergency Administration of Public Works, Fort Worth, Texas.

{\*38} We have your letter of April 12 requesting an opinion as to Section 11, Chapter 6, Laws of 1934, being Section 90-4711, 1938 Supplement.

It is my opinion that Chapter 6, of the Laws of 1934, is in the nature of an enabling act, and particularly so with respect to said Section 11, which reads "That notwithstanding the provisions of any general, special or local law, any contract for the construction of any public works project or part thereof may be awarded on any day at least five days (excluding Sunday) after at least one publication of a notice requesting bids upon such contract in a newspaper circulating in such municipality"; and that the effect of it is to permit any municipality or political sub-division of the state to advertise the construction of public works projects by contract {\*39} for a minimum period, not exceeding five days, regardless of the provision of any general, special or local law, which may provide for a longer period of advertisement, and that said section does not render it mandatory to advertise where no law required such advertisement.

The law was passed in 1934 for the purpose of accelerating the letting of public works contracts and to aid in the national recovery intended by the National Recovery Act. At that time, it was, in many cases, necessary to advertise for a long period of time, and the purpose of this section of the Act was, in my opinion solely to shorten the time necessary within which such works could be started.

For example, counties letting contracts in excess of three hundred dollars had to advertise for twenty days in the newspaper, Section 33-4231 of the 1929 Compilation. For the construction of works for flood control, advertisement had to be made for two weeks. Section 33-5204, 1929 Compilation. See also the following sections of the 1929 Compilation: 30-309, requiring conservancy districts to advertise for bids in excess of ten thousand dollars; 73-127 and 73-223, with respect to irrigation districts requiring advertisement for twenty days; 90-1215, 90-1503, 90-2306, with respect to street improvements, sidewalks and sewers, respectively, by municipalities; 120-804 requiring school districts to advertise contracts in excess of five hundred dollars for four weeks. There are probably other statutes requiring advertising in specific cases.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.