

Opinion No. 41-3752

March 27, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Miss Elizabeth Montgomery Assistant Secretary New Mexico Board of Registration for Professional Engineers and Land Surveyors Santa Fe, New Mexico

{*51} This will acknowledge receipt of your letter dated March 26, 1941, in which you request an opinion from this office as to whether or not a county road superintendent must also be a registered professional engineer and/or land surveyor.

Section 20, Chapter 45, Laws of 1935, provides:

"After the first day of July, one thousand nine hundred and thirty five, it shall be unlawful for this state, or for any of its political sub-divisions, for any county, city, or town, to engage in the construction of any public work involving professional engineering, or land surveying, unless the plans and specifications and estimates have been prepared by, and the construction executed under the direct supervision of, a registered professional engineer; provided, that nothing in this Section shall be held to apply to any public work wherein the contemplated expenditure for the complete project does not exceed two thousand dollars (\$ 2,000.00)."

Our New Mexico Supreme Court has held that Section 11, Chapter 33, Laws of 1891 (Section 33-4911, 1929 Compilation), was repealed through implication by Section 1, Chapter 135, Laws of 1921 (Section 64-201, 1929 Compilation). This only means that the several boards of county commissioners may employ a county road superintendent and that the county surveyor need not necessarily be appointed to that position. See State ex rel. Bard vs. Board of Commissioners of Grant {*52} County, 39 N.M. 119, 41 P. (2) 1105.

In view of the foregoing, I am of the opinion that a county contemplating an expenditure in excess of \$ 2,000.00 in the construction of any public work involving professional engineering or land surveying (which undoubtedly includes county road work) must obtain plans, specifications and estimates therefor prepared by, and have the construction supervised by, a registered professional engineer.

I return herewith the letter and Supreme Court opinion sent me with your request, together with a copy of Opinion No. 1491 which will be of value to you in this connection.

Trusting that the foregoing answers your inquiry, I am