

Opinion No. 41-3755

April 1, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Joseph T. Cale, Jr. Attorney at Law Santa Rosa, New Mexico

{*54} This will acknowledge receipt of your letter dated March 29, 1941, in which you request an opinion from this office with regard to the procedure to be followed in connection with a court house bond issue election to be held in your county.

Persons who are qualified electors in the county and who have **paid** a property tax during the preceding year may **vote** in a county court house bond issue election. Section 10, Article IX, of the New Mexico Constitution.

The "payment of a property tax" had been construed to mean either a payment upon real or personal property taxes. "Preceding year" means the twelve months' period prior to date of election (People vs Escherman, 165 Pac. 260, 63 Col. 227). So long as the taxes were paid during this twelve months' period, regardless of the year in which they were assessed, such payment constitutes "payment of a property tax" and is sufficient under the Constitution to allow the qualified elector to vote in the county bond issue election.

The payment by a person for an automobile license tag is insufficient. I enclose herewith copy of Opinion No. 2013 written by Fred J. Federici, former Assistant Attorney General, dated July 27, 1938, which will be of assistance to you in this connection.

You inquire as to who may sign the petition asking that a vote be taken on the proposition of building a county court house. This question is answered by Section 33-3904, New Mexico Statutes, Annotated, 1929 Compilation, as amended by Chapter 52, Laws of 1937. Any qualified elector of the county may sign the petition whether he has paid a property tax or not. In order to vote, however, he must have **paid** a property tax as required by the Constitution, Section 10, Article IX, Supra. In this connection I enclose herewith copy of Opinion No. 2041, written by Frank H. Patten, former Attorney General, dated August 31, 1938.

The county commissioners as in general elections shall designate the voting divisions and appoint the judges and clerks of election. I can find nothing in the law to require the commissioners to have the chairman of the dominant political parties nominate persons for these positions.

The motive of election as required by Section 33-3904, New Mexico Statutes, Annotated, 1929 Compilation, must be published for at least three consecutive weeks. {*55} I am of the opinion that the county bond election may be held one day following the last publication so long as the notice of publication so states.

Trusting that the foregoing sufficiently answers your inquiry, I remain,

By GEO. H. HUNKER, Jr.

Asst. Atty. General