

Opinion No. 45-4645

January 24, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. Philip M. Ludi Member, House of Representatives Santa Fe, New Mexico

{*10} We are in receipt of your request for an opinion as to whether or not Chapter 18, Laws of 1943 prohibits a member of the Legislature from teaching school during the term for which he was elected.

Section 1 of this act makes it "unlawful for any member of the Legislature, during the term for which he is elected to contract for or receive any compensation for services performed as an officer or employee of the State, * * *"

Section 2 provides, in part, that "it shall be unlawful for any officer of the State of New Mexico to pay to any member of the Legislature {*11} compensation for services rendered the State of New Mexico as an officer or employee thereof during the term for which such legislator was elected * * *"

From the above quoted sections it will be observed that this act pertains only to legislators who are officers or employees of the state. A school teacher, inasmuch as he is hired either by the county board of education (55-807) or municipal school board (55-907) is not, except in the broadest sense, a state employee since his contract is with a political sub-division of the state, and since his duties are purely local in character.

That the Legislature did not intend to cover purely local employees hired by a political subdivision, is demonstrated by Sec. 2 above quoted, wherein it is made unlawful for a state officer to pay a member of the Legislature, and does not include payments made by county or local officers.

In view of the foregoing, it is my opinion that school teachers do not come within the contemplation of Chap. 18, Laws of 1943.

By ROBERT W. WARD,

Asst. Atty. General