

Opinion No. 46-4911

June 18, 1946

BY: C. C. McCULLOH, Attorney General

TO: Mr. J. V. Taylor Advisory Member State Soil Conservation Committee State College, New Mexico

{*238} Replying to your letter of June 17, 1946, which is as follows:

"Your opinion is hereby requested on the question of whether a supervisor in a soil conservation district is required, under the law, to be a resident of such a district."

The following provision of the Soil Conservation District Act provides, in part, as follows:

Section 48-505, (c):

"* * * All owners of lands lying within the boundaries of the territory, as determined by the state soil conservation committee, shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote."

Section 48-506, (c):

"* * * The state soil conservation committee shall give due notice of an election to be held for the election of three (3) supervisors for the district, shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election, and the determination of the eligibility of voters therein, and shall publish the results thereof. All owners of lands lying within that zone of the district shall contain the larger proportion of the total number of the landowners of the district shall be eligible to vote for one (1) supervisor of those nominated by the landowners of that zone. * * *"

{*239} Section 48-509, (b):

"* * * All landowners within each zone shall be eligible to vote in the referendum on regulations proposed for that zone, and only such landowners shall be eligible to vote in such referendum." (As amended Laws 1943, Chapter 130, Section 1.)

Section 2, Article 7, of the Constitution of New Mexico provides, in part, as follows:

"Every citizen of the United States who is a legal resident of the state and is a qualified elector therein, shall be qualified to hold any public office in the state except as otherwise provided in this constitution. * * *"

Davy v. McNeill, 31 N.M. 7, 240 Pac. 482:

"Requirement of certain qualifications for electors in irrigation districts does not violate this section, as officers of irrigation districts are not 'public officers' within its meaning."

A similar fact situation was decided in the above cited case.

By reason of the foregoing, it is my opinion that a supervisor in a Soil Conservation District is not required to be a resident within the district in order to hold such office.

By THOS. C. McCARTY,

Asst. Atty. General