

## Opinion No. 47-5008

April 12, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. Lynell G. Skarda District Attorney 9th Judicial District Clovis, New Mexico

{\*30} We wish to acknowledge receipt of your inquiry of April 7, 1947, pertaining to the issuance of bonds for the holding of a Bi-State Fair in Curry County, New Mexico.

You point out that the voters of Curry County approved a \$ 25,000.00 bond issue in accordance with Section 48-2202 of the 1941 Compilation, for county fair purposes at the last general election, although the bonds, to date, have not been issued.

Your question is whether the \$ 25,000.00 worth of bonds about to be issued will affect the amount authorized to be voted on and issued pursuant to Senate Bill No. 71.

In my opinion, Senate Bill No. 71 does not repeal Section 48-2201 f. f. of the 1941 Compilation, and both a Bi-State Fair and a County Fair could be held in Curry County, if so desired.

You will note that Section 2 of Senate Bill No. 71 provides that the directors of the Curry County Fair Association, a non-profit corporation organized and existing by virtue of the laws of the State of New Mexico, may by resolution accept the provisions of this act and upon filing with the Secretary of State a certified copy of such resolution, is thereupon and is hereby constituted and designed as the Bi-State Fair Association and entitled to all rights, benefits and privileges as such, and may change its corporate name to Bi-State Fair Association by amending its articles of incorporation in the manner now provided by law for such amendments.

However, Senate Bill No. 71 provides a way in which the County Fair can be held or absorbed into the Bi-State Fair and thus avoid much duplication of expense, etc.

Section 2 of Senate Bill No. 71 does not force the director of the Curry County Fair Association to accept the provisions of this Act and as heretofore pointed out, they could go right ahead and hold their county fair as provided under Section 48-2201, f. f. of the 1941 Compilation.

On the other hand, it is my opinion that a Bi-State Fair corporation could be set up to carry out the provisions of Senate Bill No. 71 regardless of the position the director of the Curry County Fair Association might see fit to take.

However, if the director of the Curry County Fair Association accepted the provisions of Senate Bill No. 71, thus becoming the Bi-State Fair Association, the latter would be vested with any assets belonging to the old County Fair Association.

It would probably be advisable for the \$ 25,000.00 worth of bonds to be issued prior to the acceptance of the provisions of Senate Bill No. 71 by the director of the Curry County Fair Association.

If the \$ 25,000.00 worth of bonds are issued and the director of the Curry County Fair Association then accepts the provisions of Senate Bill No. 1, there is no question in my mind but what the Bi-State Fair Association could go ahead and issue an additional \$ 100,000 in bonds if the voters of Curry County gave their approval.

In your second question, you inquire where money may be obtained with which to hold said special election in view of the fact the county election fund only has some \$ 330 in it and that expenses of holding such an election will run some \$ 1500.

Under Section 15-4805, the State Comptroller is empowered, should the payments for any specific item in such approved and certified budget {\*31} estimate not be equal to the amount as so allowed for such item in said estimate, to permit in writing the unused remainder as so allowed to be used toward the payment of any other item in such estimates in such approved budget in which the necessity therefor exists.

I have consulted Mr. Sebastian, State Comptroller, and after going over the Curry County Budget, we believe the necessary transfers in the budget can be made without hindering the overall picture. Mr. Sebastian suggested the following transfers:

\$ 500.00 -- budget transfer from indigent fund

\$ 700.00 -- budget transfer from primary election fund

\$ 700.00 -- cash transfer from general fund to the county election fund

\$ 500.00 -- cash transfer from the item shown as Interest Refund to the county election fund.

If you desire more information as to the practical mechanics involved in making such transfers, you may contact Mr. Sebastian. Otherwise, you may have the County Commissioners pass a resolution authorizing such transfers and send him a copy of same.

Trusting the foregoing satisfies your inquiry, I am

By ROBT. V. WOLLARD,

Asst. Atty. General