

Opinion No. 49-5183

January 4, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: Alicia Romero Secretary of State Santa Fe, New Mexico

{*2} In your letter of January 4, 1949, you request the opinion of this office upon the following question:

Are the various counties required to bear the cost of ballot boxes and locks secured by them from the Secretary of State immediately prior to the last primary election?

Chapter 41, Sec. 321, Laws of 1927, now compiled as Sec. 56-322 of the 1941 Compilation, provided for uniform ballot boxes and locks, to be purchased by the Secretary of State, and to be furnished by that official to the various counties, with the sum of Ten Thousand Dollars being appropriated to meet the original cost.

In 1935, by Chapter 147, Sec. 33-A of the Laws of 1935, now compiled as Sec. 56-323 of the 1941 Compilation, the Legislature provided:

"It shall be the duty of the secretary of state to keep on hand a sufficient supply of ballot boxes of the type and style specified in section 41-321, New Mexico Statutes Annotated, Compilation of 1929 (Sec. 56-322), and of diverse padlocks of the pin tumbler type using paracentric keys, and to supply said boxes and locks to the several counties of the state as the same may be needed. The ballot boxes and padlocks used throughout the state shall be of uniform design. As ballot boxes or locks are needed in any county, they shall be supplied to the county clerks on requisition by said clerk upon the secretary of state, **the expense of said boxes and locks to be paid by each county to which such supplies are furnished.**"

The underlined (boldface) provision of the above cited section is clear. By its terms the counties are required to bear the expense of replacements and additions to the ballot boxes and locks originally furnished by the State.

Therefore, it is the opinion of this office that the cost of any ballot boxes and locks requisitioned by county clerks after the enactment of Section 56-323, in 1935, is properly to be charged to the county receiving the same.

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