

Opinion No. 49-5248

September 19, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: H. N. McDaniel State Purchasing Agent Santa Fe, New Mexico

{*88} In reply to your letter dated September 13, 1949, in which you request an opinion as to whether or not Chapter 233, Laws of 1939, voids the Purchasing Act passed by the Legislature of New Mexico in 1943 and which is Chapter 124, Laws of 1943.

I call your attention to the heading of Chapter 124, Laws of 1943 which reads as follows:

"An act creating the office of State Purchasing Agent, providing for his appointment and qualifications; prescribing his duties, and procedure in the matter of purchasing supplies and letting contracts for construction, repairs, and improvement of buildings and grounds for the State of New Mexico, and the various departments and institutions of the state; providing for salaries and employees and making appropriation; providing rules, records and reports; prescribing penalties; and repealing all acts and parts of acts in conflict with this act, to the extent of such inconsistency or conflict."

Section 1, Chapter 124, Laws of 1943 reads as follows:

"The word 'department' as used in this act shall mean any State department, office, board, commission, bureau, state institution, or other state agency, excepting the Judicial branch of government, and excepting counties, school districts and municipalities, now existing or which {*89} may hereafter be created by law, which expends any money derived in whole or in part from taxation or from grants or donations from the government of the United States.

"The word 'supplies' as used in this Act shall mean supplies, material, machinery, equipment, furniture, printing, and all articles and things used by any department, in the exercise of any governmental activity or function."

I next refer you to Sec. 4, Chapter 124 of the Laws of 1943 which is found in the 1947 Pocket Supplement of the Statutes, § 6-704 which provided for the purchase of all supplies and the letting of all contracts through the State Purchasing Agent. I am not quoting the section because I know that you are familiar with the content.

In view of the fact that Chapter 124, Laws of 1943 expressly repeals all acts in conflict therewith and then under § 4 (6-704 Pocket Supplement) provides the method whereby all supplies are to be purchased and all contracts are to be let, it is my opinion that Section 3 of Chapter 233, Laws of 1939 is repealed by Chapter 124, Laws of 1943, and that all contracts entered into in connection with the construction of the State Capitol must be entered into under the terms and provisions of Chapter 124, Laws of 1943, to

be found in Pocket Supplement, § 6-701 to § 6-713 inclusive, of the New Mexico Statutes, Annotated, 1941 Compilation.