

Opinion No. 50-5315

August 9, 1950

BY: JOE L. MARTINEZ, Attorney General

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

{*171} I have your letter of July 7, 1950, requesting the opinion of this office as to the correct method of certifying the question of the adoption or rejection of Chapter 123 of the Laws of 1949 to the various county clerks of the state in order that they may place the question upon the ballot at the coming general election pursuant to referendum petitions previously filed in your office.

Article 4, § 1 of the Constitution of New Mexico merely provides:

"The question of the approval or rejection of such law shall be submitted by the secretary of state to the electorate at the next general election * * *"

This broad language has left the exact manner of placing the question on the ballot in the hands of the legislature. Pursuant thereto, § 56-406 of the 1941 Compilation states, regarding such questions:

"Ballots on questions other than constitutional amendments to be submitted to the electors of the entire state shall be furnished by the secretary of state, * * * and in all such cases **such ballots shall conform as nearly as may be to the foregoing provisions for ballots on constitutional amendments.**"

While § 56-410 of the 1941 Compilation, Pocket Supplement, has relieved the Secretary of State of the duty of preparing separate ballots by providing that all questions or constitutional amendments shall be printed on the ballots for election of officers, the requirement above quoted regarding the form of the ballots is still in effect. Section 56-405 of the 1941 Compilation regarding form of ballot on constitutional amendments provides as follows:

"All ballots on proposed constitutional amendments shall have printed thereon in full, in both English and Spanish, the joint resolution proposing such constitutional amendment; and below such printed proposed amendment there shall be printed on such ballot two (2) one-quarter inch blank squares and opposite to one of such blank squares shall be printed in both English and Spanish the words 'FOR THE AMENDMENT'; and opposite the other blank square shall be printed in both languages the words 'AGAINST THE AMENDMENT': and any elector desiring to vote in favor of such amendment shall mark his ballot with a cross in the blank square opposite the words 'FOR THE AMENDMENT': and any elector desiring to vote against such amendment shall mark his ballot with a cross in the blank square opposite the words 'AGAINST THE AMENDMENT'; and such ballot shall have printed across the top

thereof the following: 'Instructions to voters. If you {*172} desire to vote for the amendment mark X in square opposite the words 'FOR THE AMENDMENT.' If you desire to vote against the amendment, mark X in the square opposite the words 'AGAINST THE AMENDMENT.'

Since in the case of constitutional amendments, the joint resolution proposing such amendment must be printed in full upon the ballot, the act to be referred to the people for their approval or rejection must likewise be printed in full upon the ballot. The act should be described by its Bill Number as well as the chapter designation subsequently given it.

In place of the words "For the Amendment" and "Against the Amendment", there should appear the words "For approval of the Act" and "For Rejection of the Act", written in both English and Spanish, each followed by a one-quarter inch square in which the voter may mark his choice.

In place of the instructions used in the case of voting upon constitutional amendments, the following should appear at the top of the ballot:

"Instructions to voters. If you desire to vote for the retention of the act mark X in square opposite the words 'FOR APPROVAL OF THE ACT.' If you desire to vote against the retention of the act, mark X in the square opposite the words 'FOR REJECTION OF THE ACT.'

While this procedure may seem somewhat unwieldy, it is in keeping with the intention of the legislature, as above quoted, that the electorate may have opportunity to examine the act in its entirety to determine whether or not they wish to retain it.

I trust the foregoing is a sufficient answer to your inquiry.