

Opinion No. 51-5403

August 14, 1951

BY: JOE L. MARTINEZ, Attorney General

TO: Honorable Beatrice B. Roach Secretary of State Santa Fe, New Mexico

{*105} This is in reply to your letter of August 13, in which you request an official interpretation of § 56-228 N.M.S.A., 1941, as that section applies to special elections.

Section 56-401 N.M.S.A., 1941, the first section of our election code concerning elections on constitutional amendments, says that:

"Such election shall be held and conducted in conformity with this act (chapter) insofar as the same is applicable."

The act or chapter referred to in this section is Chap. 41 of the Laws of 1927, as amended, which comprises the greater part of our election code.

Section 56-228 requires the furnishing of a list of registered voters by the County Clerks to the Secretary of State and, if they request them, to political party chairmen. A portion of § 56-401, quoted above, which requires that the general laws with respect to calling and conduct of elections be followed in special elections "where applicable" might well be taken to mean "where practical."

It is my opinion that § 56-228 is not applicable to the calling and conduct of all special elections within the purview of § 56-401, for in all cases it is not practical nor necessary.

The registration lists supplied to the Secretary of State are required as a practical matter for the purpose of making them available to the State Canvassing Board in the event of any contest. In a special election concerning only constitutional amendments there can be no contests. Under our code only an unsuccessful candidate for office may contest an election.

Since the list of registrants can serve no useful purpose in connection with an election solely on constitutional amendments, it is my opinion that § 56-228 is neither practical nor applicable in such case.

I trust that this will answer your inquiry fully.