

Opinion No. 53-5861

December 3, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Honorable Robert D. Castner State Auditor Santa Fe, New Mexico

{*284} Reference is made to your correspondence of November 12, 1953, in which you requested our opinion as to your eligibility and legality of being a candidate for the position of State Corporation Commissioner in the forthcoming elections.

As you undoubtedly know, this office is prohibited by statute from writing opinions for any persons other than State officials, district attorneys and their assistants:

"* * * (d) To give his opinion in writing upon any question of law submitted to him by the legislature, or each branch thereof, the governor, secretary of state, treasurer, auditor or any other state official, elective or appointive, and the several district attorneys in the state on any subject pending before them or under their control with which they have to deal officially or with reference to their duty in office. * * *"

As a matter of policy, we have interpreted this to mean that we are permitted to prepare opinions for such officials in their official capacities or that is, as long as the request refers to their official duties. This policy is considered not only advisable under the statute but also necessary due to the extreme pressure of work and the number of additional opinions that we might receive if we let the doors wide open.

For this reason, we regret to inform you that we do not feel that we should be called upon to answer the question which you presented to us. Whether or not you may be a candidate in the forthcoming election {*285} is a personal matter at this point and is not connected with your official duties as Auditor for the State of New Mexico.

I sincerely hope that you can see why this position is necessary for this office to take in matters of this nature.