

Opinion No. 55-6247

August 9, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Honorable John F. Simms, Governor, State of New Mexico, Santa Fe, New Mexico

We have your letter of August 3rd requesting an opinion as to whether the term of office of the New Mexico Racing Commission is six (6) years or five (5) years.

The pertinent part of Chapter 82, Laws of 1955, reads as follows:

". . . The term of office of each member of said commission shall be six years from and after his appointment until his successor shall have been appointed and qualified. In case of any vacancy in the membership of the commission by reason of death, resignation or otherwise, the governor shall fill such vacancy by appointment for the unexpired term; Providing further that the present commission is hereby abolished and the governor shall appoint a new commission consisting of 5 members. The members who are first appointed next after passage of this act shall serve in order of their appointment a term of 1 year, 2 years, 3 years, 4 years, 5 years, and upon the expiration of the terms of such appointees the successors shall be appointed for a term of 5 years . . ."

It is apparent that there is an inconsistency in this statute, inasmuch as the term is definitely fixed in one section at six years while in a later part it is fixed at five years. Generally all parts of an Act of a Legislature should be considered so as to give effect to the whole statute. It is apparent that this is impossible in this case. In such case that part which is last in order is deemed to control, inasmuch as this is the last word of the Legislature. See 82 C.J.S. (Statutes) Section 347 at page 718.

It is therefore the opinion of this office that the term of the New Mexico Racing Commission, after the expiration of the staggered terms fixed by this statute, is for a period of five years each.

Trusting we have answered your request we remain

By Paul L. Billhymer

Assistant Attorney General