

**Opinion No. 55-6281**

September 14, 1955

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Kermit Nash, Assistant District Attorney, Fifth Judicial District, Hobbs, New Mexico

We have your letter of September 2, 1955 requesting an opinion on the following question:

Does Chapter 289, Laws of 1955, and Chapter 267, Laws of 1955, violate the provisions of § 15-43-1 or § 15-43-2, N.M.S.A., 1953, or any other statutory or Constitutional provisions?

We would point out that Chapter 289, Laws of 1955, specifically amends § 15-43-1, N.M.S.A., 1953, and therefore there could be no conflict in the particular case.

Section 15-43-2, N.M.S.A., 1953, provides a means of continuous reclassification of counties for salary purposes based upon the assessed valuation as determined by the State Auditor and provides that this classification is to be done every two years. This section has as its purpose the carrying into operation the actual classification as is now set out in Chapter 289, Laws of 1955. Section 15-43-2, N.M.S.A., 1953, will operate in the future, that is every two years the Auditor is to determine the counties which come within each class set up by Chapter 289, Laws of 1955.

Chapter 289, Laws of 1955, was passed pursuant to the authority of Article X, Section 1, New Mexico Constitution, which authorizes the Legislature to classify counties for the purpose of salaries of the county officials. By this law, each county within the proper assessed valuation in the year 1954 will fall within the county classification therein set out.

Article IV, Section 27 of the New Mexico Constitution provides that salaries of any officer cannot be changed during the term for which they are elected, therefore the salary schedule provided by Chapter 289, Laws of 1955, will not be effective until January 1, 1957, when the next term of office will begin for all county officials.

Chapter 267, Laws of 1955, provides for a county advisory board for all Class B counties and provides for a salary for the members. We find nothing in the Constitution which would prevent the Legislature from creating such a board.

It is the opinion of this office that neither Chapter 289 nor Chapter 267, Laws of 1955, violates any provisions of the Constitution or conflicts with any other statutory provision of the laws of the State.

Trusting we have answered your request, we remain

By Paul L. Billhymer

Assistant Attorney General