

## Opinion No. 55-6303

October 18, 1955

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

**TO:** Honorable W. T. Scoggin, District Judge, Third Judicial District, Las Cruces, New Mexico

You have presented to this office for our opinion three questions:

1. For purposes of the State Retirement Act what is the status of District Court employees, i.e., are they county or state employees?
2. In any event what is the proper source for matching the contributions of District Court employees?
3. Is Chapter 15, Laws of 1955 constitutional, and if so what is its proper construction?

This office has previously ruled in Attorney General's Opinion No. 6291 and No. 6299, upon the first two questions which you present.

In Opinion No. 6291 it was ruled that probation officers were county employees. In Opinion No. 6299 it was ruled that District Court Clerks are county employees. We enclose copies of these opinions for your information and our answer to your first two questions are in accordance with those two opinions.

Concerning your Question No. 3 on the constitutionality of Chapter 15, Laws of 1955, it is noted that this Act provides for the per diem compensation of Court Reporters, Stenographers, and Interpreters. All of the Act is contained within one paragraph. At the beginning it is provided:

"Each official shorthand reporter including court stenographer and interpreter of the district courts shall receive a compensation to be paid out of the court fund, of twenty dollars (\$ 20.00) for each day actually in attendance upon and en route to or from the several courts in his district for services he may be required by the court to perform in the trial of causes; . . ."

At the end of the Act it is provided:

". . . District Courts and grand jury interpreters shall receive a compensation of fifteen dollars (\$ 15.00) per day, to be paid out of the court fund."

It is noted that there is a conflict between the amounts to be paid to interpreters. The first portion provides payment in the amount of \$ 20.00 and the last portion payment in the amount of \$ 15.00.

While it may be argued that the statute is so ambiguous as to defy construction and therefore it is unconstitutional, we hesitate to so hold, and although we are not free of doubt we will rely upon the rule that where different parts of a statute are in irreconcilable conflict the last words stand and those in conflict therewith are disregarded. See 82 C.J.S., (Statutes) Section 347, at pages 716 and 718 and cases therein.

Thus it is our opinion that all of the positions mentioned in Chapter 15, Laws of 1955, call for compensation in the amount of \$ 20.00 with the exception of Court interpreter who, according to the last words of the Legislature, shall receive \$ 15.00 per day.

We trust the above helps answer your inquiries.

By: Santiago E. Campos

Assistant Attorney General