

Opinion No. 55-6269

September 2, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Abner Schreiber, Assistant District Attorney, First Judicial District, Los Alamos, New Mexico

We have your letter of August 23 in which you requested an opinion from this office as to whether Justices of the Peace, who have qualified and filed bonds under § 36-1-4, N.M.S.A., 1953, prior to the amendment by Chapter 206, Laws of 1955, would have to file another bond in the amount of \$ 5,000.00.

The important part of Chapter 206, Laws of 1955, reads as follows:

"Every justice of the peace shall, before he enters upon the duties of his office, execute a bond to the state in the sum of five thousand dollars (\$ 5,000), . . ."

The statute states that the bond is to be filed prior to entering upon the duties of the office. Each Justice of the Peace now in office has filed a bond before he entered upon the duties of his office according to the provisions of § 36-1-4, prior to the 1955 amendment, inasmuch as Justices of the Peace are elected at the General Election. These Justices of the Peace have satisfied the requirements of the law as they existed at the time of their election.

The wording of Chapter 206, Laws of 1955, "before he enters upon the duties of his office", would clearly indicate that the bond was to be filed at the beginning of his term of office. Since the Legislature did not see fit to include the requirement of a new bond for present Justices of the Peace, it seems that the intent was that every Justice of the Peace elected after the effective date of Chapter 206, Laws of 1955, will have to execute and file a bond in the amount of \$ 5,000.00.

It is, therefore, the opinion of this office that Justices of the Peace, who have filed a bond under § 36-1-4 prior to the 1955 amendment, will not have to file a new bond. All Justices of the Peace elected at the next General Election, or any appointed to fill any vacancy after the effective date of Chapter 206, Laws of 1955, will have to file a bond in the amount therein required.

Trusting we have answered your question, we remain

By Paul L. Billhymer

Assistant Attorney General