

## Opinion No. 56-6451

May 28, 1956

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

**TO:** Stanley J. Leland, M.D., Director, N.M. Department of Public Health, Santa Fe, New Mexico

In your letter of May 16, 1956, you state that petitions requesting the issuance of bonds for the construction of a hospital in Bernalillo County to be used as a health unit, have been circulated and some 2,700 signatures have been obtained.

You ask whether signatures to a total of 10% of the vote cast for Governor in the last preceding election are necessary upon this petition in view of the fact that a proposition for the issuance of court house bonds was defeated less than two years ago.

By virtue of Chapter 20, Laws 1947, hospitals were added to court houses, jails and bridges as proper subjects for the issuance of bonds. The chapter under which all such bonds are issued provides (Section 15-49-7, N.M.S.A., 1953 Compilation):

"After the defeat of any proposition once voted for, a second special election upon any question or proposition under the provisions of this article shall not be held for a term of two (2) years, unless a petition requesting another election, containing the names of qualified electors of said county equal to ten (10) per cent of the vote cast for governor in the last preceding election and otherwise conforming to the requirements of this section, shall be presented to the board of county commissioners; Provided, however, that in no event shall more than two (2) elections upon any proposition or question under this article be held in any term of two (2) years."

Standing alone this section would indicate that once a proposition for any of the purposes enumerated has been defeated an election cannot be held for that purpose or any other enumerated purpose for a period of two years unless a petition containing signatures in an amount equivalent to 10% of the vote cast for governor has been filed. However, by a later enactment, in 1947, the Legislature provided specifically for hospitals. This Act was Chapter 148, Laws 1947. By virtue of Section 4 thereof, now compiled as Section 15-48-4, N.M.S.A., 1953 Compilation, it is specifically provided that after the defeat of one hospital bond issue a petition bearing the names of qualified electors equal to 10% of the vote cast for governor is necessary for another hospital bond issue. Since Chapter 148 is a later enactment than Chapter 20 above quoted, it is the opinion of this office that it supersedes the earlier enactment insofar as the same are inconsistent to the extent that they conflict upon the problem involved herein. They are inconsistent and Chapter 148 must govern. Therefore, only 200 signatures are necessary upon the petition, and the fact that a court house bond election resulted in a negative vote does not require petitions in the amount of 10% of the vote for governor.

By: Walter R. Kegel

Assistant Attorney General