

Opinion No. 56-6514

August 23, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. J. C. Enloe, District Attorney, Seventh Judicial District, Socorro, New Mexico

In your letters of July 20th and July 28th, 1956, you request our opinion on several questions concerning county fair bonds.

You first ask whether an election to issue such bonds for the erection of structures and buildings for the holding of county fairs may be lawfully held under the provisions of Section 45-21-2, N.M.S.A., 1953 Compilation, Pocket Supplement. This statute was amended by the 1955 Legislature in view of Attorney General's Opinion No. 5805, a copy of which is enclosed herewith, holding the original statute unconstitutional. Following the reasoning of that opinion we feel that the statute is still partially invalid insofar as it applies to maintenance and repair of structures. However, we feel also that the invalid portion can be separated from the valid portion and that county fair bonds may be issued for the erection of buildings under Board of County Commissioners vs. McCulloh, 52 N.M. 210. Bonds may likewise probably be issued for the equipping of structures and the purchase of land upon which to place them. If bonds are issued for any of these purposes, we believe that they will be valid.

You further ask whether the County Commissioners may submit such a question without a petition being filed therefor by qualified voters. The statute under which these bonds are issued has no provision for submitting the question to the electorate after petition. It does not contemplate petition and there is nothing in the Constitution to require such a petition. Therefore it is not only proper but is the statutorily contemplated manner of submitting the question to do so without petition.

You further ask whether the Notice of Election on such bonds may be merged with a notice of the general election or whether separate notice should be published. The above cited section provides that the question may be submitted at any regular election or any special election. In this instance it would therefore be proper to include the matter within the election proclamation for the general election.

By: Walter R. Kegel

Assistant Attorney General