

Opinion No. 59-175

October 28, 1959

BY: HILTON A. DICKSON, JR., Attorney General

TO: Mr. A. M. Frazier Commission Counsel Employment Security Commission of New Mexico P. O. Box 1799 Albuquerque, New Mexico

{*269} This is in response to your recent inquiry in which you asked for our opinion in regard to the following questions:

1. Referring to Chapter 364, Laws of 1959, what was the date of the enactment thereof?
2. Again referring to Chapter 364, Laws of 1959, what was the effective date thereof?

Our answer to your first question is that the date of enactment thereof was April 2, 1959.

Our answer to your second question is that the effective date thereof was June 12, 1959.

The pertinent portion of Section 1, Chapter 364, Session Laws of 1959, states:

". . . as shall be credited to this account during the two years commencing with the date of **enactment** hereof." (Emphasis Supplied)

Section 2 of the same chapter states in part:

"The employment security Commission is hereby authorized to expend or obligate within the two-year period commencing with the date of **enactment** hereof such appropriated money. . . ." (Emphasis Supplied)

The pertinent portion of Article IV, Section 5, New Mexico Constitution states:

"Each regular session of the legislature shall begin at 12:00 noon on the second Tuesday of January next after each general election and shall remain in session not to exceed (60) days."

Article IV, Section 23 of New Mexico Constitution, states in part:

"Laws shall go into effect ninety days after the adjournment of the legislature enacting them, except general appropriations laws, which shall go into effect immediately upon their passage and approval. . . ."

The pertinent portion of **State ex rel New Mexico State Bank v. Montoya**, 22 N.M. 215, (222) states:

". . . We therefore hold that the constitutional limitation appearing in Section 23 of Article IV of the Constitution, providing that laws shall go into effect 90 days after the adjournment of the Legislature enacting them, except general appropriation laws which shall go into effect immediately upon their passage and approval, is a limitation upon the right of the legislature to provide a **shorter period than 90 days** within which laws shall become effective, and does not preclude the legislature from fixing a longer period than 90 days after the adjournment of the legislature, when legislative enactments shall become effective. . . ." (Emphasis Supplied)

The twenty-fourth regular session of the Legislature adjourned at 12:00 noon, March 14, 1959.

April 3, 1959, Hon. Frank Zinn, the then Attorney General of the State of New Mexico, addressed an advisory letter to Hon. John Burroughs, Governor of New Mexico, stating in substance that the effective date of nonemergency {**270*} clause enactments passed by the 24th Legislature would be June 12, 1959.

Although perhaps appropriating money, Chapter 264, Session Laws of 1959, was **not** a general appropriation law as defined by Article IV, Section 23, *supra*, nor did it bear an emergency clause.

The date of enactment was April 2, 1959, the date Senate Bill No. 348 was approved by the Governor.

By virtue of the constitutional limitation upon the right of the Legislature to provide a shorter period than ninety days after adjournment of the Legislature enacting them, Article IV, Section 23, *supra*, and by virtue of the interpretation of that Article by the New Mexico Supreme Court in **State ex rel v. Montoya**, *supra*, we hold that Senate Bill No. 348 was enacted on April 2, 1959, the date said bill was approved by the Governor.

We further hold that the effective date of Chapter 364, Session Laws of 1959, was June 12, 1959.

Carl P. Dunifon

Assistant Attorney General