

Opinion No. 59-169

October 20, 1959

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

TO: Honorable Betty Fiorina Secretary of State Santa Fe, New Mexico

{*261} This is in response to your recent request for an opinion on the following questions:

1. Whether or not large quantities of Affidavit of Registration blanks can be given out by your office to individuals other than county clerks?
2. If not, can the forms be provided to individuals by the office of the county clerk?

Answer:

1. No.
2. Yes, see opinion.

Section 3-2-7, N.M.S.A., 1953 Comp., provides that the Affidavit of Registration forms shall be provided by the Secretary of State. They shall be printed, numbered and furnished in triplicate. This section does not contain any instructions on where the forms are to go or to whom they are to be given.

Section 3-2-41, N.M.S.A., 1953 Comp., provides as follows:

"All forms, blanks, records, files or other equipment necessary for the carrying out of this act [3-2-5 to 3-2-34, 3-2-36 to 3-2-47, 3-3-5, 3-6-10] shall be prescribed and furnished by the secretary of state, by and with the consent and approval of the state board of finance, provided, that nothing contained therein shall be contrary to any specific provision of this act. **The secretary of state shall furnish to the county clerk of {*262} each county a sufficient number of all such blanks, forms and records printed in the English language and such number printed in the Spanish language as shall be necessary for each county and shall furnish a set of instructions to each registration officer. All such supplies shall be delivered to the registration officers by the county clerk.** (Emphasis supplied)

The duty of the Secretary of State is limited to the furnishing of supplies to the various counties according to the demand of each county. The Secretary of State has no duty to register, or cause to be registered, any voter. This is the duty of the registration officers of the individual counties. The Affidavits of Registration as well as other voting supplies are paid for by the State. There is no provision under which the various county clerks or registration officials can obtain affidavits of registration from any other source.

It would be inconsistent in view of the statutory duty of the Secretary of State to furnish voting supplies to the counties at the expense of the State and to hold at the same time that these supplies may be delivered to any individual who may make demand therefor. Such demands by private individuals for Affidavits of Registration in large quantities could so reduce the supply of these forms as to cause the Secretary of State to be unable to deliver a sufficient number to the various county clerks and registration officials. The supplies are limited by the money available to the Secretary of State for the printing thereof and there is no authority under the statutes for these supplies to be delivered to anyone other than the county clerks or registration officials.

The second question involves a different duty on the part of the county officials than that created by statute for the Secretary of State. It is the duty of the county registration officials to assist with the actual registration of voters. The county officials are not limited in the number of clerical assistants needed to carry out this duty. Section 3-2-43, N.M.S.A., 1953 Comp. (PS).

This office has consistently held that Affidavits of Registration may be filled out before any person authorized to administer oaths. (Attorney General's Opinions No. 3457, No. 4127, No. 4109, No. 4482). That the registration statutes contemplate registration of voters before persons other than the county clerk and registration officials is supported by the language in Section 3-2-47, N.M.S.A., 1953 Comp-(PS), which reads in part as follows:

". . . All copies of registrations taken by other officials authorized to administer oaths hereafter shall be delivered to the county clerk, and the triplicate copy shall be returned to the registrant only after the same has been signed or stamped by the county clerk. . . ." (Emphasis supplied)

Registration is required in order to exercise the privilege to vote, and it is a well accepted principle that registration statutes should be construed liberally in favor of the franchise. It is the purpose of the statute to obtain as complete a registration as possible. In keeping with this policy, the county clerks or registration officials have discretion in the matter of delivering Affidavits of Registration to responsible persons in order to effectuate a more complete registration of those entitled to vote. The county clerks, however, should maintain a record of the persons to whom such affidavits are delivered and should take such other precautions as they deem wise to see that full use is gained from the supplies furnished to them by the state.

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