

Opinion No. 59-23

March 9, 1959

BY: FRANK B. ZINN, Attorney General

TO: Mr. Norman Hodges District Attorney Silver City, New Mexico. Attention: Paul Wright, Administrator Hillcrest General Hospital P. O. Box 710 Silver City, New Mexico

The salaries of county hospital employees must be paid semimonthly.

OPINION

{*33} This is written in reply to your recent request for an opinion on the following question:

May a county hospital pay its employees on a monthly basis or must salaries be paid semimonthly?

{*34} It is my opinion that county hospital employees must be paid semimonthly.

By Laws 1933, Chapter 168 (15-43-24, N.M.S.A., 1953 Comp.) there is provided in part that:

"Except as hereinbefore and hereinafter otherwise provided, the salaries of all county officers and the salaries of deputies, as fixed by law, and the expenses, as fixed by law, shall be paid monthly out of the county salary fund, upon warrants drawn by the county commissioners, and shall be paid from the respective dates upon which the several county officers qualified.

Provided, that salaries of county superintendents of schools shall likewise be paid monthly out of the general school fund of the respective counties."

It is to be noted that this statute makes reference only to the salaries of county officers and deputies. Nothing is said regarding the salaries of employees.

Searching further, I find that by chapter 157, section 1, Laws 1933, (5-4-5, N.M.S.A., 1953 Comp.). It is required that:

"It is hereby provided that all persons employed by and on behalf of the State of New Mexico, including all officers, shall receive their salary or wages for services rendered, semimonthly, and that the payment of said salary and wages shall be paid to said persons so employed within not to exceed sixteen (16) days from the date of payment of the next preceding payment of said salary or wages.

.....

That all Acts or parts of Acts in conflict herewith be and the same are hereby repealed."

It appears that the two acts referred to were both approved March 16, 1933, and since neither carried an emergency clause, they became effective at the same time.

It might be argued that Section 5-4-5, N.M.S.A., 1953 Compilation, was controlling only with regard to persons employed by the state as compared with the counties. I believe, however, that reference to the title of Chapter 157 will support the opposite view and my opinion as earlier expressed. The considered title provides, in setting out the subject and area of the act, as follows:

"AN ACT REGULATING THE TIME OF PAYMENT OF SALARIES AND WAGES FOR THOSE EMPLOYED BY THE STATE OF NEW MEXICO, **AND THE POLITICAL UNITS THEREOF**; PROVIDING FOR EXEMPTIONS, AND PENALTY FOR VIOLATION THEREOF AND REPEALING ALL OF, AND REPEALING ALL ACTS OR PARTS OF ACTS IN CONFLICT HEREWITH." (Emphasis supplied)

It is my belief that it must be concluded that Chapter 157, Laws 1933, was intended to apply to the manner of paying employees of the counties as well as of the state.

Hilton A. Dickson, Jr.

Assistant Attorney General