

Opinion No. 65-103

June 21, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

TO: Mr. John Hough, County Clerk, Luna County Court House, Deming, New Mexico

QUESTION

QUESTIONS

1. Does the registration of voters for a county bond election close thirty days before the bond election?
2. What does "property tax" as used in Article IX, Section 10, New Mexico Constitution mean?
3. Does payment of an automobile, airplane, boat or other license fee constitute payment of a property tax under Article IX, Section 10?
4. What does the phrase "paid a property tax therein during the preceding year" mean as used in Article IX, Section 10?

CONCLUSIONS

1. Yes.
2. Ad valorem tax on real or personal property.
3. No.
4. See analysis.

OPINION

{*175} ANALYSIS

Section 3-2-19, N.M.S.A., 1953 compilation provides that registration books be closed on the thirtieth day preceding **any** election at which the registration books are to be furnished to the judges of election. Of course, it is to be noted that this section also provides that when registration is so closed, the county clerk can continue to receive affidavits of registration but is not to file them in the registration books until after the election. Opinion No. 63-155.

Section 15-49-7, N.M.S.A., 1953 Compilation provides that county bond elections "shall be held and conducted in the same manner as general elections." Since registration books are furnished to the election judges at general elections (Sections 3-2-20, 3-3-25, 3-3-13, 3-6-5, 3-6-6, 3-4-15) under Section 3-2-19 the registration of voters for a county bond election does close on the thirtieth day preceding the election.

In answer to your question "property tax" as used in Article IX, Section 12 means the ad valorem real and personal property tax dealt with in Article VIII, Section 1, New Mexico Constitution. Even the payment of special assessments levied on real property is not the payment of a property tax. Opinion No. 62-51.

The above paragraph actually answers your third question. However, we would point out that this office has specifically held that the payment of license fees is not the payment of a property tax under Article IX, Section 10. Opinion No. 3755 (1941).

{*176} The last cited opinion also answers your fourth question. "Payment of a property tax during the preceding year" means the twelve month period prior to the election regardless of the year in which the taxes were assessed. It might be that such a tax had been paid by the property owner during this period but that he had subsequently become delinquent in his current taxes. He is still allowed to vote unless his property has been sold to the State for delinquent taxes prior to the election. Section 72-8-1, N.M.S.A., 1953 Compilation. Opinion No. 65-54.