

Opinion No. 65-212

October 25, 1965

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

TO: Stanley J. Brasher, Governor's Administrative Aide, Governor's Office, Santa Fe, New Mexico

QUESTION

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May resolutions and constitutional amendments be considered in legislative sessions taking place in even-numbered years?

CONCLUSION

No.

OPINION

{*345} ANALYSIS

Article XIX, Section 1 of the New Mexico Constitution, as amended in 1911, provides that:

"Any amendment or amendments to this constitution may be proposed in either house of the legislature at any **regular** session thereof . . ." (Emphasis added).

Until 1964 the constitution provided for a regular session only in odd-numbered years. Article IV, Section 5. However, as amended November 3, 1964, Article IV, Section 5 now provides for annual **regular** sessions. Paragraph B of this section now provides as follows:

'Every regular session of {*346} the legislature convening during an **even-numbered year shall** consider **only** the following:

- (1) budgets, appropriations and revenue **bills**;
- (2) **bills** drawn pursuant to special messages of the governor; and
- (3) **bills** of the last previous regular session vetoed by the governor." (Emphasis added).

As in the case of statutes, in construing a constitutional provision regard must be given to the entire document in an effort to harmonize the various provisions, and, if possible to give effect to each of them. **State ex rel. Ward v. Romero**, 17 N.M. 88, 125 Pac. 617.

Again, as in the case of statutes, if an irreconcilable conflict exists between two constitutional provisions, the later provision controls to the extent of the conflict. **Asplund v. Alarid**, 29 N.M. 129, 219 Pac. 786; **Pressley v. Industrial Commission**, 73 Ariz. 22, 236 P.2d 1011; **Wilson v. Crews**, 160 Fla. 169, 34 So. 2d 114; **Thoman v. City of Lansing**, 315 Mich, 566, 24 N.W. 2d 213.

Here we find that there is an irreconcilable conflict in the area of proposed constitutional amendments during even-numbered years' sessions. On the one hand Article XIX., Section 1 provides that **any** amendment may be proposed at **any** regular legislative session. On the other hand Article IV, Section 5 provides that every regular session of the legislature convening during even-numbered years shall consider **only** the three subjects enumerated therein. This limitation contained in Article IV, Section 5, being the later amendment, must control.

Referring back to Article IV, Section 5, quoted previously we note that the **only** matters which may be considered during legislative sessions convening in even-numbered years are **bills** dealing with certain limited subjects.

Article IV, Section 22, New Mexico Constitution, provides that "Every **bill** passed by the legislature shall, before it becomes a law, be presented to the governor for approval." Resolutions and proposed constitutional amendments do **not** have to be presented to the governor for approval and are not bills. Attorney General's Opinion No. 5336 (1961); **May v. Rice**, 91 Ind. 546; **Scudder v. Smith**, 331 Pa. 165, 200 Atl. 601; **Warfield v. Vandiver**, 101 Md. 78, 60 Atl. 538. See also **Hutcheson v. Gonzales**, 41 N.M. 474, 71 P. 2d 140. Accordingly, resolutions and proposed constitutional amendments may not be considered during legislative sessions convening in even-numbered years.