

Opinion No. 65-231

December 7, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Myles E. Flint, Assistant Attorney General

TO: John F. Otero, Director, Fair Employment Practice Commission, 137 E. De Vargas, Santa Fe, New Mexico

QUESTION

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Does the Fair Employment Practice Commission have jurisdiction over cases filed against any conservancy district in this State?

CONCLUSION

Yes.

OPINION

{*378} ANALYSIS

The New Mexico Fair Employment Practice Commission was created by Statute, Section 59-4-1, et seq., N.M.S.A., 1953 Compilation. "Employer" is defined therein as follows:

"(d) The term "employer" includes the state, or any political or civil subdivision thereof, any person employing four [4] or more persons in same kind of employment within the state, and any person acting in the interest of an employer, directly or indirectly, but does not include a religious corporation or association, {*379} or a social or fraternal club not organized for private profit." § 59-4-3(d), N.M.S.A., 1953 Compilation.

Sections 59-4-8 and 59-4-9, N.M.S.A., 1953 Compilation authorize the Commission to promulgate regulations and policies to effectuate the policy of the enactment, and to investigate and pass on charges of violations and establish the procedure for such proceedings.

In answering the question posed here, it is necessary to determine if a conservancy district comes within the definition of "employer" set out above. Conservancy districts are established pursuant to statutory authority. Section 75-21-1, et seq., N.M.S.A., 1953 Compilation, as amended. The Attorney General's Office has previously rendered several opinions pertaining to the nature of a conservancy district. Attorney General Opinions 1931-1932, No. 483 and 1938-1938, No. 1784. In each of those opinions it

was held that a conservancy district was a political subdivision of the State and a body corporate with all the powers of a public or municipal corporation. Each of these opinions was based upon what is now codified as Section 75-28-9(2), N.M.S.A., 1953 Compilation. That Section provides that once a district is formed it thereupon becomes a political subdivision of the State.

As the New Mexico Fair Employment Practice Commission has jurisdiction over employers including the State or any of its political subdivisions, and a conservancy district is a political subdivision, it is our opinion that the Commission has jurisdiction over cases filed against a conservancy district.

We trust this fully answers your questions.