

Opinion No. 65-48

March 19, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Thomas A Donnelly, Assistant Attorney General

TO: Honorable Alberta Miller, Secretary of State, Santa Fe, New Mexico

QUESTION

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In view of the fact this office does not receive too many requests for copies of the emergency laws and the fact that we do include the printing of the emergency laws in the session laws, in order to avoid double expense with a dual printing, is it possible and permissible for the office of the Secretary of State to make copies of the emergency bills as we receive requests on a photographic copying machine in this office?

CONCLUSION

See analysis.

OPINION

{*83} ANALYSIS

A number of constitutional and statutory provisions closely relate to the subject of your inquiry. Article IV, Section 23, of the New Mexico state constitution directs that "Laws shall go into effect ninety days after the adjournment of the legislature enacting them, except general appropriation laws, which shall go into effect immediately upon their passage and approval. Any act necessary for the preservation of the public peace, health or safety, shall take effect immediately upon its passage and approval, provided it be passed by two-thirds vote of each house and such necessity be stated in a separate section."

Article XX, Section 12, of the State Constitution relates to the publishing of laws enacted by the state legislature and contemplates that they shall be published in the manner prescribed by the legislature.

By direction of the State Constitution the Secretary of State is the official custodian of every act which is presented to the Governor for signature by the legislature. Article IV, Section 22, of the State Constitution sets out that "every bill passed by the legislature shall, before it becomes a law, be presented to the governor for approval. If he approves, he shall sign it, and deposit it with the secretary of state. . ."

Traditionally, the legislature by the General Appropriations Act allocates a specific appropriation to the office of the Secretary of State for the printing of session laws of the following legislature. Laws of 1964, Chapter 2, Section 4, Second Special Session, stated in part:

"For the fifty-third fiscal year, appropriations are made from the state general funds, except as otherwise provided, for the following executive offices, agencies and departments * * *

SECRETARY OF STATE, the sum of * * *

4. Publication of session laws . . . \$ 15,000."

Additionally, Section 4-2-6 N.M.S.A., 1953 Compilation, relating to the duties of the Secretary of State, specifies that copies of laws, shall be made available to persons requesting such copies for the fees therein set forth.

Finally, Sections 10-1-13 and 10-1-15, N.M.S.A., 1953 Compilation requires the distribution of copies of statutes or session laws of the state legislature. Section 10-1-13, supra, sets out in applicable part:

"The officials having charge of the reports of the Supreme Court of the state of New Mexico **and of the published statutes or session laws of this state**, excepting the New Mexico statutes Annotated, 1929 Compilation, **are required hereafter to transmit copies of each volume thereof as issued to the following parties, to-wit:** 1 copy to the attorney general of the United States; 1 copy to each of the justices of the United States Supreme Court; 5 copies to the librarian of the Supreme Court of the United States; 5 copies of the reports of the Supreme Court of New Mexico and 8 copies of the statutes or session laws of this state to the Library of Congress; 1 copy to the United States district attorney for New Mexico and each of his assistants; 1 copy to the attorney general of New Mexico and each of his assistants; 1 copy to each board of county commissioners; 1 copy to each probate judge; 1 copy to each district judge in this {84} state; also, where any other state or territory will supply the state law library of this state with one or more copies of the Supreme Court or other Appellate Court reports and the statutes or session laws of each state or territory, the officials above mentioned are hereby required to transmit to the proper official of said state or territory an equal number of copies of the reports of the Supreme Court of this state and of statutes or session laws of this state; 1 copy to the United States district judge for New Mexico; and 1 copy each to the judges of the United States circuit court of appeals in the tenth judicial circuit. * * * (Emphasis supplied.)

Following such statute, a similar statutory provision is contained in Section 10-1-15, supra, relating to distribution of state laws:

"The officer or employee of this state having charge of the publication of the public documents hereinafter mentioned shall transmit the same to the librarian of Congress

for the use of members of Congress from New Mexico and others interested, if and when printed, as follows: 2 copies each of the biennial budget, of the reports and official opinions of the attorney general of the state, **and of all separate compilations of laws issued by state officers**; 1 copy each of the legislative journals and other documents published by order of the state legislature or either house thereof and of all reports, bulletins, circulars, pamphlets, maps, charts and other official publications of any executive department, office, commission, bureau, board or state institution now existing or hereafter authorized by law." (Emphasis supplied).

From a careful analysis of the above constitutional and statutory provisions it is our opinion that the Secretary of State must make distribution of the session laws of the legislature as set forth in Sections 10-1-13 and 10-1-15, and to other state officials who request copies as well as interested members of the state bar and the general public. Since as provided in Article IV, Section 23, of the State Constitution, **emergency laws become effective when signed by the Governor**, a number of extremely important statutory provisions become law without the public officers and general public of this state having access to the terms and provisions of such laws, unless they are quickly printed and distributed.

While the constitution and statutes of the state do not particularize the manner in which the Secretary of State is to print or make distribution of the legislative session laws, nor do such legal provisions specify a deadline for making such distribution, never-the less, we think that the clear import of the authorities cited above, require that the Secretary of State print in a readily accessible booklet the session laws of the state legislature and make distribution thereof as soon as practicable to the public officers set out in Sections 10-1-13 and 10-1-15 N.M.S.A., 1953 Compilation, and in addition have copies in booklet form of all session laws, for purchase by the members of the state bar and general public. We think that public expediency dictates that such session laws be available for distribution and sale at the earliest possible time.

The time and manner of printing of the session laws is left to the sound discretion of the Secretary of State, although it is clear that from the constitution and statutes such officer is charged with the duty of carrying into effect such printing and distribution of the session laws.

We note as a caveat that unless the emergency laws are printed in their entirety, and adequately indexed, within a relatively short period after their being signed into ^{*85} law, the judiciary, law enforcement officers, the members of the bar, public officials of the state and the general public are for all practicable purposes without any real access to such laws after such legislation has already become effective. The general laws, other than the emergency laws do not become effective until ninety days following the adjournment of the legislature so that the printing of these laws may occur within such period and be available prior to their taking effect. But in respect to emergency laws it would appear a matter of vital public necessity that they be printed, distributed, and made available to all interested persons within the earliest possible time.