

## Opinion No. 65-78

May 21, 1965

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

**TO:** Mr. Thomas G. Trotter, Administrative Assistant to the Governor, State Capitol, Santa Fe, New Mexico

### QUESTION

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If a political party convention is called prior to the effective date of Senate Bill 180 but convenes after the effective date of the Act, are the proceedings valid if they are not in compliance with Senate Bill 180?

#### CONCLUSION

Probably not.

### OPINION

#### {\*136} ANALYSIS

Senate Bill 180 (Laws 1965, Chapter 141) compiled as Section 3-12-3.1 provides as follows:

"PARTY RULES AND REGULATIONS -- REQUIREMENTS. -- The rules and regulations adopted by any political party pursuant to Sections 3-12-2 and 3-12-3 New Mexico Statutes Annotated, shall be adopted uniformly {\*137} throughout the state by the County organizations of that political party and the rules and regulations of the county organization shall not differ in any essential respect from those adopted by the state organization. The rules and regulations shall provide that the meetings **to elect any party officials**, including delegates and precinct committeemen, shall be held at a public place, and on a specified date, which date shall be uniform throughout the state, and said rules and regulations shall further provide that notice of such meetings shall be published by the officials of the county party organization in a newspaper of general circulation in the county at least thirty days prior to the county convention. The notice shall specify the time, date and place for holding the county convention and for holding meetings to elect any party official, including delegates and precinct committeemen." (Emphasis added)

The present rules and regulations of the Democratic Party of New Mexico, adopted October 25, 1963, provided that the "County Chairman of each county shall, upon

receiving the call of the State Chairman, issue a call for a county convention to choose delegates to such state, district or other conventions, which shall be held at a public place, and on a specified date, which shall be uniform throughout the state."

However, this rule applies only to pre-primary nominating conventions and does not apply to the election of party officials. Since nominating conventions are held in even numbered years and party officials are chosen at conventions held in odd numbered years, there was not, prior to enactment of Senate Bill 180, any requirement that county conventions to choose party officials be on the same date. And, in fact, the county conventions to select party officials have not been held on the same date in the various counties in the past. Nor was there the publication requirement that is contained in Senate Bill 180.

The present rules of the Republican Party of New Mexico, adopted November 10, 1963, specifically permit county conventions to select party officials to be on different dates so long as the conventions are held "not later than the second Tuesday of June of each odd numbered year."

Senate Bill 180, which becomes effective at 12:01 A.M., on June 18, requires that the state rules of political parties provide that county meetings, including those for the selection of party officials, must be held on the same date. It also provides that the state rules shall "provide that notice of such meetings shall be published by the officials of the county party organization in a newspaper of general circulation in the county at least thirty days prior to the county convention."

Since the state rules of each major party do not now contain these requirements, they must be amended after June 18 to so provide. Inasmuch as there will be no state conventions until 1966, the state central committees of each party should meet shortly after June 18 to amend the state party rules in compliance with the legislative mandates contained in Senate Bill 180. The present party rules provide for this method of amendment. After the state rules of the two parties have been so amended, the county conventions to select party officials can then be called on the date specified in the state rules as required by Senate Bill 180.

It is our opinion that even though the call for a county convention is issued prior to June 18, if the convention is not to be held until after June 18 there is certainly some doubt as to the validity of the actions taken at such convention -- this because the provisions of Senate Bill 180 have {\*138} not been complied with.

One reason we reach this conclusion is that if the call for the convention is issued prior to June 18 and the convention convenes thereafter, the party officers selected serve for two years. Thus the requirements of Senate Bill 180 will have been effectively circumvented as to this type of convention for two years. We cannot attribute an intention to the legislature that a statute be held in abeyance in this fashion.