

Opinion No. 68-117

November 27, 1968

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Alfonso G. Sanchez District Attorney First Judicial District P.O. Box 2041 Santa Fe, New Mexico

QUESTIONS

FACTS

The first question which you submit as set out below concerns the duties and powers of the Los Alamos Police Department. On June 7, 1965, the Board of Commissioners of Los Alamos County adopted a resolution concerning the duties and responsibilities of the Los Alamos Police Department. Paragraph 3 of that resolution conferred upon the Department and its employees "like powers, and . . . like responsibilities, as Sheriffs or Constables of the State of New Mexico, in similar cases."

Your second question is unrelated to the first but is fully discussed below.

1. Does a conflict with State law exist in the above quoted portion of the resolution?
2. Is it legal for the County of Los Alamos to change utility categories from residential to commercial without prior notice to the consumers?

CONCLUSIONS

1. No.
2. Yes.

OPINION

{*189} ANALYSIS

Los Alamos is a County of the H class and as such has all the powers and authorities granted to incorporated municipalities, § 15-36-13, N.M.S.A., 1953 Compilation. Furthermore as an H-Class County, Los Alamos under the Municipal Code is considered to be a municipality, § 14-1-2(G), N.M.S.A., 1953 Compilation (P.S.). Therefore, we must review the powers granted to municipal police departments by the Legislature to determine whether the Board of Commissioners of Los Alamos County could properly by ordinance confer upon the Los Alamos Police Department powers and responsibilities commensurate with those of sheriffs and constables.

At the time that the above resolution was adopted by the Los Alamos Board of Commissioners, the statute applicable to municipal police officers was § 14-17-6, N.M.S.A., 1953 Compilation (since repealed by Ch. 300, Laws 1965, and substantially reenacted as § 14-12-2(B), supra (P.S.)) and provided in pertinent part as follows:

The marshal and other peace officer or officers of cities, towns and villages shall . . . have in the discharge of their proper duties, like powers, and be subject to like responsibilities, as sheriffs . . . in similar cases.

The language contained in paragraph 3 of the resolution is almost identical with the language contained in the above cited statutory provision. In effect, the resolution merely restates that which has already been provided by the Legislature. Thus, since the Legislature has conferred upon municipal police departments the powers and responsibilities similar or equal to those of sheriffs or constables, the powers so conferred upon the Los Alamos Police Department in no way conflict with our statutes. This in no way means that the police officers of the Los {**190*} Alamos Police Department are to be considered as state officers, nor does it mean that the sheriff's duties and responsibilities are in any manner replaced or diminished.

Your second question asks whether the public utility owned by the County of Los Alamos must give notice prior to changing a utility category from residential to commercial. Our search of the statutes reveals no requirement that utility corporations, whether municipally or privately owned, give prior notice to its customers of a change in user category. This area of utility operation is one of internal management and of public relations.

By: David R. Sierra

Assistant Attorney General