

## **Opinion No. 69-110**

September 16, 1969

**BY:** OPINION OF JAMES A. MALONEY, Attorney General James C. Compton, Jr.,  
Assistant Attorney General

**TO:** Isidro J. Romero, Commissioner, Guadalupe County Board of County  
Commissioners, Guadalupe County Courthouse, Santa Rosa, New Mexico 88435

### **QUESTIONS**

#### QUESTIONS

May a board of county commissioners remove its chairman from that position during his term of office and replace him with a new chairman?

#### CONCLUSION

No.

### **OPINION**

#### {\*177} ANALYSIS

Attorney General Opinion No. 5983, June 28, 1954, involved a similar question and concluded: (1) that when a board of county commissioners organizes at its first meeting and elects a chairman of the board, such chairman is elected for his term of office, being two years; (2) that the members of the board cannot legally remove such chairman; and (3) that he remains the chairman during his term unless he resigns as chairman or ceases to be a member of the board. That Opinion construed legislation substantially similar to the following current statutes. Section 15-37-4, N.M.S.A., 1953 Compilation, states:

"At each general election in New Mexico there shall be elected three county commissioners in each county."

Section 15-37-7 states:

"Said board of county commissioners shall meet at the county seat of each county on the first Monday in January, April, July and October in each year, and at such other times as in the opinion of the board the public interest may require."

Section 15-37-9, states:

"They shall at the first meeting after their election choose one of their number chairman, who shall preside at such meeting and all other meetings during the year if present, but in case of his absence from such meeting the members present shall choose one of their number as temporary chairman."

In essence, these statutes provide that at its first meeting in the January following its election, a board of county commissioners shall elect a chairman to serve as such during his term of office. Only if the chairman either resigns as chairman or ceases to be a member of the board may a new chairman be legally elected.

The Guadalupe County Board of County Commissioners was organized at its first meeting in January 1969. A chairman was elected at that meeting. Unless he either resigns as chairman or ceases to be a member of the board, that chairman continues to serve in that position for the remainder of his term of office. Consequently, the attempt on August 14, 1969 to replace that chairman with a new chairman is invalid and ineffective.