

## **Opinion No. 73-12-A**

February 8, 1973

**BY:** OPINION OF DAVID L. NORVELL, Attorney General

**TO:** Mr. Clay Buchanan Director New Mexico Legislative Council 334 State Capitol  
Santa Fe, New Mexico 87501

### **QUESTIONS**

#### **FACTS**

Opinion of the Attorney General No. 73-12, dated February 1, 1973 stated that Senate Bill 23 was not contrary to Article IV, Section 16 of the Constitution of New Mexico but indicated that sections eight and nine of the bill were improper since they contained language not covered by the applicable phrase in the title of the bill. A memorandum from the Legislative Council was submitted to this office further explaining these two sections. In light of this memorandum, a request was made to clarify the opinion.

#### **QUESTIONS**

Does the title of Senate Bill 23 adequately cover sections eight and nine of this bill?

#### **CONCLUSION**

Yes.

### **OPINION**

#### **{\*22} ANALYSIS**

The phrase in the title of Senate Bill 23 which refers to sections eight and nine is "CHANGING PROVISIONS FOR SALARIES OF DISTRICT HEALTH OFFICERS." Of course this title adequately covers the changes necessary in these two sections to effect an alteration of provisions relating to district health officer salaries. The broad title of the act covers changes relating to county finance.

However, other changes are also included in these two sections and not referred to in the title. All these additional changes go to wording of the existing statute in order to make it conform to the language of statutes passed since the original enactment. The statutes to which the language of these sections conforms are: Section 12-1-27, N.M.S.A., 1953 Comp.; Section 11-1-34, N.M.S.A., 1953 Comp.; Section 5-4-36, N.M.S.A., 1953 Comp. Since these changes are not changes in the effect of the law, and notice of the changes in language has been given in the prior bills which enacted

them, there is no reason to include these "clean-up" provisions of sections eight and nine in the title of Senate Bill 23.

The primary purpose of Article IV, Section 16 is to prevent fraud or surprise by means of concealed or hidden provisions in an act which the title fails to express. **Fischer v. Rakagis**, 59 N.M. 463, 286 P. 2d 312 (1955); **Balleu v. Denson**, 63 N.M. 370, 320 P. 2d 382 (1958). There is no danger of fraud or surprise being concealed in sections eight and nine.

Therefore we are of the opinion that sections eight and nine of Senate Bill 23 are valid and proper under Article IV, Section 16, and Opinion of the Attorney General No. 73-12, dated February 1, 1973 is modified accordingly.

By: Jane E. Pendleton

Assistant Attorney General