

Opinion No. 73-12

February 1, 1973

BY: OPINION OF DAVID L. NORVELL, Attorney General

TO: The Honorable Anthony A. Lucero New Mexico State Senator Legislative-Executive Building Santa Fe, New Mexico 87501

QUESTIONS

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Does Senate Bill 23 violate Article IV, Section 16 of the Constitution of New Mexico?

CONCLUSION

See analysis.

OPINION

{*20} ANALYSIS

Article IV, Section 16 of the Constitution of New Mexico states:

"The subject of every bill shall be clearly expressed in its title, and no bill embracing more than one subject shall be passed except general appropriation bills and bills for the codification or revision of the laws; but if any subject is embraced in any act which is not expressed {*21} in its title, only so much of the act as is not so expressed shall be void. General appropriation bills shall embrace nothing but appropriations for the expense of the executive, legislative and judiciary departments, interest, sinking fund, payments on the public debt, public schools, and other expenses required by existing laws; but if any such bill contain any other matter, only so much thereof as is hereby forbidden to be placed therein shall be void. All other appropriations shall be made by separate bills."

In our opinion, Senate Bill 23 is a revision of the law within the meaning of Article IV, Section 16 of the Constitution of New Mexico. In **City of Raton v. Sproule**, 78 N.M. 138, 429 P. 2d 336 (1967) it was held that "Revision of the Laws" within the meaning of the Constitution implies one, more or all of the following: (1) re-examination of existing statutes; (2) restatement of existing statutes in corrected or improved form; (3) restatement may or may not include material changes; (4) all parts and provisions of former statute or statutes that are omitted are repealed; (5) revision displaces and repeals former law as it stood relating to subject or subjects within its purview. Senate Bill 23 embraces numbers two, three and five.

Since Senate Bill 23 is a revision of the law, it may embrace more than one subject. When more than one subject in the act is germane to the main issue, it is constitutional. **State v. Miller**, 33 N.M. 200, 263 P. 510 (1928); **State v. Mirabal**, 33 N.M. 553, 273 P. 928 (1928). The stated title of Senate Bill 23 refers to county finance. All sections of the bill deal with revisions in the system of county finance. Only two sections are objectionable, as discussed below. Therefore, the main issue is county finance, and the subjects being revised relate to county finance.

Furthermore in considering whether a statute embraces more than one subject, the term "subject" is to be given broad and extended meaning so as to allow the Legislature full scope to include in one act all matters having a logical or natural connection. To constitute duplicity of subject, an act must embrace two or more dissimilar and discordant subjects that by no fair intendment can be considered as having any legitimate connection with or relation to each other. All that is necessary is that the act should embrace some one general subject. **Johnson v. Greiner**, 44 N.M. 230, 101 P. 2d 183 (1940); **Kilburn v. Jacobs**, 44 N.M. 239, 101 P. 2d 189 (1940). Senate Bill 23 seems to have as a primary objective the consolidation of various county funds into a county general fund and providing revenues for this fund. Surely the most logical approach is to include these provisions in one bill since they are naturally connected.

In **State v. Ingalls**, 18 N.M. 211, 135 P. 1177 (1913), it was stated that the true test of validity under this constitutional provision is: Does the title fairly give reasonable notice of the subject matter of the statute itself? We believe the title fairly expresses the content of the act except with respect to sections eight and nine, dealing with district health officers.

The subjects in these two sections do not appear to be sufficiently related to the main issue of county finance. The title would not put a person on notice of the revisions included in these two sections. The subjects relate more to health districts than to county finance.

Where the title of an act begins with a general descriptive phrase, then goes on to describe the contents in more detail, the scope of the act is limited by the more detailed description, so that a provision not contained within the detailed description is void even though it falls within the general description contained in the first phase of the title. **Bureau of Revenue v. Dale J. Bellamah Corp.**, 82 N.M. 13, 474 P. 2d 499 (1970).

Therefore, even though the gist of these two sections is related to county finance, the more narrow designation in the title "of changing provisions for salaries of district health officers" does not properly cover the revisions contained in sections eight and nine. The revisions in these two sections are not restricted to changes in the salaries of district health officers.

In summary, we are of the opinion that under Article IV, Section 16 of the Constitution of New Mexico, Senate Bill 23 is valid except for sections eight and nine.

By: Jane E. Pendleton

Assistant Attorney General