

## Opinion No. 73-22

February 21, 1973

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

**TO:** Honorable Robert Jordan State Representative State Capitol Building Santa Fe, New Mexico 87501

### QUESTIONS

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If House Bill 243 becomes law, would its provisions apply to home-rule municipalities?

#### CONCLUSION

Yes.

### OPINION

#### {\*38} ANALYSIS

House Bill 243 is an act prohibiting public employers from engaging in collective bargaining with public employee organizations. Section 3 of the Bill, the definition portion, defines "Public Employer" as "the state, county and **municipal governments**, acting through their agencies, departments, divisions, branches and bureaus; school districts, tax-supported hospitals and other political subdivisions."

"Public Employee" is defined as " **any** employee of a public employer except . . ." [the exceptions are not pertinent in answering your question].

Article X, Section 6, New Mexico Constitution, the Municipal Home Rule Amendment, provides in paragraph D that

"A municipality which adopts a charter may exercise all legislative powers and perform all functions **not expressly denied by general law or charter**. . . ." (emphasis added)

House Bill 243 does expressly deny to a municipality the authority to engage in collective bargaining with employee organizations, since it is specifically designated as a public employer. Accordingly, House Bill 243, if enacted, would apply to home-rule municipalities.

By: Oliver E. Payne

Deputy Attorney General