

Opinion No. 80-25

July 14, 1980

OPINION OF: Jeff Bingaman, Attorney General

BY: Jill Z. Cooper, Deputy Attorney General

TO: Leo Griego, Director, State Personnel Office, 130 South Capitol, Santa Fe, New Mexico 87503; Joe Halpin, Administrator, State Records Center, 404 Montezuma, Santa Fe, New Mexico 87503

PUBLIC OFFICERS AND EMPLOYEES

The positions referred to as "state historian" and "deputy for archives for the state records center" are not separate and distinct for purposes of the personnel classification plan for the state records center.

FACTS

In 1968, the classification and compensation plan of the state personnel office included the position of deputy for archives at the state records center. In 1969, the legislature provided that "[t]he deputy for archives for the state records center is designated as 'state historian'," Section 18-6-14 NMSA 1978, and further that the "state historian" would be a statutory member of the "cultural properties review committee," Section 18-6-4 NMSA 1978. In 1970, the state personnel office adopted a classification for the position of state historian and apparently abolished the classification of deputy for archives. The administrator for the state records center has now proposed that the classification of deputy for archives be re-established.

QUESTIONS

Are the positions referred to as "state historian" and "deputy for archives for the state records center" separate and distinct for purposes of the personnel classification plan for the state records center?

CONCLUSIONS

No.

ANALYSIS

The position of deputy for archives for the state records center is not defined by the Public Records Act, Sections 14-31-1, **et seq.**, NMSA 1978, which specifically names only the position of "state records administrator." Nevertheless, the legislature implicitly recognized the existence of the deputy position when it enacted Section 18-6-14 NMSA

1978, designating the deputy for archives for the state records center as the state historian. If not, Section 18-6-14 would be meaningless and it may be assumed that the legislature would not enact a useless or meaningless statute, **State ex rel. Bird v. Apodaca**, 91 N.M. 279, 573 P.2d 213 (1977).

OPINION

As a rule, a statute must be interpreted as the legislature understood it at the time it was enacted. **Montoya v. City of Albuquerque**, 82 N.M. 90, 476 P.2d 60 {*162} (1970). Moreover, a statute must be given effect as written. **State v. Elliott**, 89 N.M. 756, 557 P.2d 1105 (1977). Thus, Section 18-6-14 NMSA 1978, must be interpreted to provide for a position at the state records center which is to be filled by a person who serves both as the deputy for archives and the state historian.

Given the legislative direction of Section 18-6-14 NMSA 1978, any question as to under which title the position is to be filled is essentially a matter of form. Whether the position is classified by the state personnel board as the deputy for archives or as the state historian is of no substantive importance. The classification plan for the position, which is required by Section 10-9-13(A) NMSA 1978, must incorporate a job description which is relevant to all the duties of the position.

Thus, notwithstanding the various classification revisions since the enactment of Section 18-6-14 NMSA 1978, and those being proposed, the only position at issue here is the one defined by Section 18-6-14 NMSA 1978, and it should be described and classified accordingly under a title which properly reflects the dual nature of the position.

ATTORNEY GENERAL

Jeff Bingaman, Attorney General