

Opinion No. 15-1520

May 10, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Candido Padilla, Manzano, N. M.

Local option elections cannot be held within two months preceding another regular election.

OPINION

{*106} I have received your letter of the 6th inst. in which you ask me, in substance, whether there can properly be held a local option election at Manzano within two months preceding the election of grant commissioners which, under Section 2 of Chapter 39 of the Laws of 1907, must be held on the first Tuesday of September of this year. The law with regard to the local option elections in Section 3 of Chapter 78 of the Laws of 1913 provides that the election is to be held not less than one nor more than two months after the entry of the order by the county commissioners, but no such election shall be held within two months preceding any other election.

You also say that you understand there will be no meeting of the county commissioners until June and there would not then be time to order the local option election so that it would be more than two months before the election of the commissioners. I believe, however, that it is doubtful to say the least, whether you could present the petition for the local option election at the June meeting. Section 2 of the act of 1913 requires that the petition must be presented at a regular meeting of the Board of County Commissioners. Regular meetings of the board are provided for in Section 662 of the Compiled Laws of 1897 and from that section you will see that the meetings are to be on the first Mondays in January, April, July and October in each year. I know of nothing else in the statutes which provides for a regular meeting of the county commissioners. The meeting in June is a meeting of the county commissioners sitting as a Board of Equalization, and I would be afraid that there would be some room to argue that the petition was not properly presented if presented at that June meeting. The July {*107} meeting this year will be on the 5th of July and the commissioner election on the first Tuesday of September, would be September 7th. If you could have the commissioners at their July meeting remain in session until the 8th of July, you could then present the petition and have an order for the local option election on the 8th of September so that this provision of the law, about having no such election within two months preceding the other election, would not be applicable.

I am of opinion that a regular election such as the one for the county commissioners, especially when it is to be held at the same place as the local option election would make it unsafe to have the local option election within two months preceding that regular election.