

## Opinion No. 46-4875

March 9, 1946

**BY:** C. C. McCULLOH, Attorney General

**TO:** M. W. Hamilton City Attorney Santa Fe, New Mexico

{\*204} We have jointly studied the question concerning the nomination of candidates for city offices in connection with the question of when a political party should make and file its nominations of candidates for offices to be elected at a municipal election.

In view of the uncertainty concerning this matter, we have considered that it would be to the public interest to incorporate our joint opinion in an opinion of the Attorney General, and I am, therefore, writing the following opinion on this question:

Section 14-1303 of the 1941 Compilation provides that all elections for municipal officers shall in all respects be held and conducted in the manner prescribed by law in cases of county elections. A question is raised by this language whether the intent of the Legislature by the use of the foregoing language was to merely specify the manner of actually conducting the election, or whether it also involved the manner of nominating candidates of the political parties. If it should be construed to include the nomination of candidates, the provision of Section 56-302 of the Supplement to the 1941 Compilation, prescribing that the chairman and secretary of every political convention held for the nomination of county officers shall be certified not less than 20 days previous to each general election, would apply. Of course, general election in this instance refers to municipal elections.

If this construction were followed, the deadline for filing candidates for the coming municipal election would be midnight, March 13.

To avoid any possible question, it is considered advisable that this provision should be complied with and all political parties should file their candidates before this date; otherwise, a question might be raised. It is, however, noted that previous rulings have been to the effect that there is no limitation as to the time of filing candidates. It is not the purpose of this opinion to overrule such opinions, but to merely point out a procedure that, if followed, eliminates any possible legal question.

Section 14-1303 of the 1941 Compilation further prescribes the time and manner of making the proclamation concerning municipal elections. There is no provision of the law requiring that political parties can only nominate candidates after this proclamation is made and, therefore, so long as the political parties certify their candidates for the next municipal election prior to midnight, March 13, there can be no question concerning the validity of such nominations.

By HARRY L. BIGBEE,

Asst. Atty. General