

For these reasons, therefore, I conclude that the teacher is entitled to her contract.

Respectfully submitted,

M.A. DISKIN,
Attorney-General

Hon. J.A. Houlahan,
District Attorney,
Goldfield, Nevada

SYLLABUS

OPINION NO. 30-385. ELECTIONS—NUMBER OF NAMES TO APPEAR ON BALLOT FOR ASSEMBLY WHERE ONE PARTY DOES NOT HAVE FULL NUMBER OF CANDIDATES.

(1) Under Statutes 1927, page 325, where one party has not a sufficient number of candidates for Assembly to complete the ticket for these offices, the law requires sufficient names to be placed on ballot at general election so that the same exceed in number twice the number to be elected.

(2) At a primary election fifteen Republicans sought nomination for Assembly and six offices were to be filled. At the same election but two Democrats sought the nomination for said offices. The law requires the names of the highest ten Republicans plus the names of the two Democratic candidates to appear on the general election ballot.

Reno, September 6, 1930.

Mr. Elwood H. Beemer, County Clerk, Reno, Nevada.

Dear Sir: You have requested the opinion of this office concerning the number of names that should appear upon the election ballot of the general election in November for Assemblymen from District No. 3.

At the recent preliminary election there were fifteen Republican candidates for the six nominations that party was entitled to, and there were two Democrats for the nomination to which that party was entitled. There were, consequently, no candidates on the Democratic ticket for four of the offices of Assemblymen.

Each member of the Assembly holds a separate and distinct public office. Each has his own individual compensation, and his own independent vote on matters that come before the lower house of the Legislature. The six persons elected from District No. 3 will each, therefore, be elected to a separate and distinct office.

The Statutes of Nevada (Stats. 1927, p. 325) provide, in so far as is material to this question:

The party candidate who receives the highest vote at the primary shall be declared to be the nominee of his party for the November election. In the case of an office to which two or more candidates are to be elected at the November election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the primary shall be declared the nominees of their party; *provided*, that if only one party shall have candidates for an office or offices for which there is no independent candidate, then the candidates of such party who received the highest number of votes at such primary (not to exceed in number

twice the number to be elected to such office or offices at the general election) shall be declared the nominees for said office or offices.

I have conferred on this question with Attorney-General M.A. Diskin, and am authorized to state that this is the joint opinion of the Attorney-General's office and of this office.

The statute heretofore mentioned has already been construed by the Supreme Court of Nevada in the case of *State ex rel. Pittson v. Beemer*, [51 Nev. 192](#). Under the provisions of this statute and as the same has been interpreted by the Supreme Court of this State, it is our opinion that there should be printed upon the November ballot the names of the highest ten Republican candidates for the Assembly from District No. 5, plus the two Democratic candidates for the same offices.

Yours very truly,

LESTER D. SUMMERFIELD,
District Attorney,
Washoe County, Nevada

SYLLABUS

OPINION NO. 30-386. STATUTES—EXPENDITURES CONFINED TO PURPOSES OF LAW.

The activities of a State board in expending money must be confined to provisions of statutes.

INQUIRY

Carson City, September 15, 1930.

Has the Board of Barber Examiners the right to use money in its fund to have a new and different barber bill prepared to present to the Legislature, and has it the right to use these funds for the expenses of obtaining signatures from a majority of the shops in the State?

OPINION

Chapter 131, Statutes 1929, gives the Board of Barber Examiners, in section 16, the right to use such funds for all necessary and proper expenses in carrying out the provisions of the Act. The expenses named in the inquiry are totally outside of the provisions of the Act and have no connection with it.

The purpose outlined in your inquiry is to create a new and different Act, and, therefore, the expenditures would not be justified.

Respectfully submitted for the Attorney-General,

M.A. DISKIN,
Attorney-General

By: William J. Forman,
Deputy Attorney-General

Dr. E.E. Hamer,