

(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$15 multiplied by the total number of such individuals who received old-age assistance for such month, plus

(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan for old-age assistance or both, and for no other purpose.

The provision to pay to the State two-thirds of the third of the maximum amount of forty-five dollars and one-half of the remaining amount which exceeds the amount allowed under subdivision (A) results in the Federal government paying two-thirds of one-third plus one-half of two-thirds which equals five-ninths. Thus, the Federal government's share upon the payment to an individual of forty-five dollars would be twenty-five dollars, the State's share ten dollars and the county's share ten dollars.

Section 3 of the Old-Age Assistance Act of this State provides that the amount of income reasonably necessary to support each needy aged person requiring assistance, including all income from every source, is determined to be not less than forty dollars per month, thus fixing a minimum and not a maximum allowance.

Section 15 provides for the raising of funds sufficient to pay the State's one-fourth of the total amount of such old-age assistance and administration thereof.

Section 14 provides for the payment by each county of the necessary expenses of county administration and for the payment of one-fourth of the total amount of old-age assistance to be paid in that county pursuant to section 3 of the act.

Section 24 provides as follows: "If in the future the Congress of the United States shall pass any law or laws that have the effect of liberalizing the participation of the Federal Government in the Nevada Old-Age assistance Act either as the reduction of the age of eligibility for assistance, or otherwise, the State and county boards are hereby authorized and empowered to accept the increased benefits of such congressional legislation, insofar as such acceptance may be legally delegated by the legislature to such boards."

Very truly yours,

ALAN BIBLE, Attorney General

By: George P. Annand, Deputy Attorney General

OPINION NO. 46-344. Public Officers—Justices of the Supreme Court—Vacancy Filled, How.

Carson City, August 21, 1946

HON. VAIL PITTMAN, *Lieutenant and Acting Governor of Nevada, Carson City, Nevada.*

DEAR GOVERNOR PITTMAN: In your letter of August 20, 1946, received here August 21, 1946, you ask two questions, viz:

1. In making an appointment to fill the vacancy in the office of Justice of the Supreme Court caused by the death of the late Justice Edward A. Ducker, what should your commission recite as to the term for which the appointment is made?

2. What procedure should be followed by one who seeks election to fill such vacancy?

As to question No. 1, we suggest your commission should name the appointee and designate him "as Justice of the Supreme Court of the State of Nevada to fill the vacancy in the office lately held by Hon. Edward A. Ducker, deceased, until said vacancy is filled at a general election by the people."

This form is substantially approved in the case of *ex rel. Penrose v. Greathouse*, 48 Nev. 419-420. We think it is well to show specifically in this way that the vacancy is in the "office" and was caused by the death of the officeholder.

As to question No. 2, similar light is shed by the same decision cited above. Section 25 of the Primary Election Law is held to apply in such case (sec. 2429 N.C.L. 1929). The pertinent part of that section is the second paragraph, reading as follows:

In the event of vacancies in nonpartisan nominations, the vacancy shall be filled by the person who received the next highest vote for such nomination in the primary for such office. If there be no such person then the vacancy may be filled by a petition signed by qualified electors equal in number to five percent of the total vote cast for representative in Congress at the last preceding general election in the county, district, or state, as the case may be. Such petition shall be filed on or before fifteen days before the November election.

The court cited section 48 of the General Act of 1866 relating to officers (sec. 4812 N.C.L. 1929) providing that in case of vacancy in the office of Justice of the Supreme Court a successor shall be chosen at the next general election for the balance of the unexpired term. Section 48 also indicates clearly that the interim commission by the Governor will expire at the general election "and upon the qualification of his successor."

Any person seeking election to this office at the November election this year should cause to be filed with the Secretary of State, the petition mentioned in section 25 of the Primary law. IN computing the number of qualified electors required to sign such petition the general election returns should be consulted covering the election of 1944. No declaration of candidacy seems provided for, but an acceptance of designation appended to the petition or filed separately would not be in appropriate. The form suggested in the last paragraph (b) of section 5 of the Primary Election Law might be substantially followed. (Sec. 2408 N.C.L. 1929. *See Stats. 1945, 174.*)

In referring to the office to be filled by election, words similar to the following should be used:

We the undersigned qualified electors of the State of Nevada constituting in number at least five percent of the vote cast for Representative in Congress at the last preceding general election therein do hereby petition that the name of a duly qualified elector of said State and in all respects eligible, be placed on the general election ballot to be used at the general election to be held in said State November 5, 1946, for election to the office of Justice of the Supreme Court of the State of Nevada to supply the vacancy in said office caused by the death of Hon. Edward A. Ducker for the remainder of his unexpired term.

Very truly yours,
ALAN BIBLE, Attorney General

OPINION NO. 46-345. Nevada Hospital For Mental Diseases—Board of Control Not Required to Advertise For Bids For Reconstruction of Cottage—Public Policy.

Carson City, August 21, 1946

MR. EDWARD P. PARSONS, *Architect, 210 West Second Street, Reno, Nevada.*

DEAR MR. PARSONS: Referring to your request contained in your letter of August 19, 1946.

Examination of the law discloses there is no requirement for the Board of Control of the State Hospital for Mental Diseases to advertise for bids for the reconstruction of the cottage in question. Section 3509, N.C.L. 1929, provides very broad powers for the Board of Control.

I fail to find any special Act dealing with the question. The provisions of chapter 225, page 443, 1945 Statutes, relates to construction, equipping, and furnishing of certain wards at the hospital. Likewise the Act of the 1939 Legislature relating to the repairing and conditioning of certain State buildings as found at section 6974.20, N.C.L. Supp. 1931-1941, relates to an