

Opinion No. 65-12

January 25, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

TO: Senator Matias L. Chacon, New Mexico State Senate, State Capitol Building, Santa Fe, New Mexico

QUESTION

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When a school district overlaps county lines, which county's voting machines are to be used for the election?

CONCLUSION

See Analysis.

OPINION

{*23} ANALYSIS

Section 3-4-28, N.M.S.A., 1953 Compilation provides in pertinent part that

"Voting machines provided for use in any precinct or voting district for general and primary elections shall also be used in any other election if the authority calling the particular election determines that the use of such machines is advisable and so directs."

The New Mexico statutes do contemplate the formation of school districts which cross county lines. Section 3-2-3.1, N.M.S.A., 1953 Compilation provides as follows:

"For all purposes relating to any and all school elections, including school bond elections, all the area within the exterior boundaries of any school district, as now defined or as may hereafter be created or altered, is hereby declared and defined to be one precinct, whether in one or more counties."

However, we find no express provision as to which county's voting machines are to be used if the authority calling the election directs that voting machines be used instead of paper ballots. However, to use the voting machines of two counties would certainly inject an element of confusion into the preparations for the election. If voting machines are to be used, it would be a policy decision for the authority calling the election to

make. Logic would suggest that the machines of the county which has the larger population in the particular school district be used.