

Opinion No. 75-50

September 10, 1975

BY: OPINION OF TONEY ANAYA, Attorney General

TO: Mr. William C. Witter Assistant Executive Secretary Board of Educational Finance
Santa Fe, New Mexico

QUESTIONS

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Who may call "elections held pursuant to the branch community college law" as specified in Section 73-30-18, NMSA, 1953 Compilation?

CONCLUSION

See Analysis.

OPINION

{*136} ANALYSIS

Section 73-30-18(l), **supra**, provides that

"All elections held pursuant to the branch community college law shall be as follows:

(1) The **board** calling the election shall give notice . . ." (Emphasis added.)

The term "board" is specifically defined in Section 73-30-18(A), **supra**, which provides:

"As used in Sections 73-30-17 through 73-30-25, NMSA 1953, 'board' means the local board of education, or the combined local boards of education acting as a single board, of the school district."

The language of this statute is clear and unambiguous and, there being no room for construction, must be given effect as written. *State v. Herrera*, 86 N.M. 134, 520 P.2d 554, (Ct. App. 1974). (Compare, for example, Section 73-34-5, N.M.S.A., 1953 Compilation of the Technical and Vocational Institute Act which directs, in the case of multiple school districts, that the technical and vocational board be made up of representatives of the local boards.)

Thus, in the case of a branch community college district which is comprised of more than one local school district, the board shall be a composite board made up of all the

members of the local boards. The various duties delegated to the "board" by law would be undertaken by such composite board acting as a single board.

Specifically, it is the composite board which, pursuant to Section 73-30-18(I), **supra**, would call for an election, and it is the composite board which, pursuant to Section 73-30-21, N.M.S.A., 1953 Compilation, would levy and collect the property tax. Although the statutes are sufficiently clear on this question and there is, therefore, no basis for doubting the seemingly obvious intent of the legislature, we would raise two other points in this connection.

First, we would suggest that the phrase "acting as a single board" necessarily implies that the board may function in a manner appropriate to such boards. That is, it may elect officers, designate an executive committee to carry out some of its duties, and the like. The statute provides for the composition of the board and that may not be disregarded. What we suggest here, however, is that within such requirement there is room for the board to adopt procedures {^{*137}} appropriate to its efficient operation.

Second, the definition of "board" in Section 73-30-18(A), **supra**, explicitly applies to Sections 73-30-17 to 73-30-25 N.M.S.A., 1953 Compilation. We would have to presume that later enacted Sections 73-30-26 to 73-30-28, N.M.S.A., 1953 Compilation, are also bound by that definition. Section 73-30-26, **supra**, for example, provides that the board of any community college may issue bonds. It also provides, however, that the bonds be issued "in the name of, and on behalf of, the school district," "signed by the chairman of the board," and "attested by the secretary of the board." Thus, although Section 73-30-26, **supra**, is somewhat ambiguous, and the definition of board in Section 73-30-18, **supra**, is not expressly made applicable, we would have to conclude that the bond issue election required by Section 73-30-26, **supra**, is, under Section 73-30-18(I), **supra**, an election "held pursuant to the branch community college law" and therefore the board calling the election is the composite board defined in Section 73-30-18(A), **supra**.

"School district" must mean, as it apparently does in Section 73-30-18(A), **supra**, the branch community college district and the chairman of the board would be the chairman of the composite board and so on. To interpret Section 73-30-26, **supra**, otherwise would create enough confusion to render the statute unworkable with respect to a branch community college district made up of more than one local school district. If the language of a statute seems to make its application unreasonable, then it must be construed to conform to the obvious reason or spirit. **State v. Ortiz**, 78 N.M. 507, 433 P.2d 92 (Ct. App. 1967).

In short, branch community college laws give certain powers to the "board". When more than one school district makes up a branch community college district, that board is expressly intended to be a composite of the local school boards. It would be in derogation of the law to grant any other group the powers granted to the board as defined by Section 73-30-18, **supra**.

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