

Opinion No. 33-556

January 27, 1933

BY: E. K. NEUMANN, Attorney General

TO: Mrs. Georgia L. Lusk, Supt. of Public Instruction, Santa Fe, New Mexico

{*26} Referring to your letter of January 26, 1933, to which was attached a copy of the telegram from Mr. Grady Thompson, relating to school elections. You request an opinion upon the questions therein raised, as well as an opinion upon Senate Bill No. 14, as to the time it becomes effective and whether it controls the 1933 municipal school board elections.

Mr. Thompson's telegram is as follows:

"All present members of Hobbs Board were appointed and their terms expire. Get opinion from Attorney General as to number we should elect and their term of office and wire us collect."

Senate Bill No. 14 is now the law and controls the 1933 municipal school board elections, same carrying the emergency clause.

No fear need be had, if prompt action is taken, that the time to call such school elections is insufficient. The law controlling such matters is found in Section 90-608, controlling the calling of municipal elections, the pertinent part being, as follows:

"xxx, and all elections for municipal officers shall in all respects be held and conducted in the manner prescribed by law in cases of county elections. Provided, however, that the proclamation for all municipal elections shall be signed by the mayor and attested by the clerk of such municipal corporation, and such proclamation shall be published once a week for two successive weeks, the last insertion thereof to be at least one day before the date of said election,"

Consequently, I feel that the proclamation may be published as late as February 6th and 13th. Care, however, must be taken to consider the date or day of week the newspapers are published in each municipality.

As to the Hobbs question. If all the directors are appointed, their terms expire, so that either two or three, as the case may be, must be elected for the unexpired terms of those whose places they fill. The other two or three, as the case may be, must be elected for a new term. If two are to be elected for new terms, both shall be for a term of six years, but if three are elected, one shall be elected for a term of four years.

Trusting that I have made myself clear, I am