

Opinion No. 37-1576

March 30, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mr. H. R. Rodgers, Supt. of Public Instruction Santa Fe, New Mexico

{*67} Section 906, Chapter 120 of the New Mexico Statutes Annotated, 1929 Compilation, referred to by you in your letter of March 29, 1937, has been amended and reenacted as Chapter 22 of the Laws of 1933. The restrictions as to the area of the district and as to the territory to be annexed were omitted from the act as re-enacted. The extent of territory therefore is no legal impediment to the consolidation of Districts 14 and 2 of San Juan County.

As to the procedure for consolidation, Chapter 22 of the Laws of 1933 provides that such consolidation shall be "ordered jointly by the municipal and county boards of education" and that the procedure shall be in substantially the same manner as in the case of rural school districts, and if "a majority of the {*68} votes cast" is in favor of consolidation, the consolidation shall be made upon order of the State Board of Education.

The procedure in case of consolidation of rural districts is set out in Section 3 of Chapter 98 of the Laws of 1935. I take it, from the expression above referred to, -- consolidations shall be ordered "jointly by the municipal and county boards of education" -- that the duties imposed upon the county board of education by this Chapter 98, Laws of 1935, shall be performed jointly by the county and municipal boards.

Chapter 98, Laws of 1935, above referred to in turn provides that petition for consolidation must be filed with the county board of education prior to the first day of April, and shall contain signatures of fifty per cent (50%) of the qualified electors in each district. It then provides for notice to the State Board and for calling of the election. As above stated, all these duties are to be performed jointly by the two boards, and this includes the canvassing of the votes.

This chapter provides that the election shall be called, conducted, canvassed and proclaimed in substantially the same manner as provided for bond elections by the act of which this law was originally a part. That act is Chapter 148 of the Laws of 1923, and the sections dealing with the election procedure are Sections 120-702 to 120-709 of the New Mexico Statutes Annotated, 1929 Compilation, Secs. 702 to 709 of said Ch. 148.

This, I believe, answers your questions. The consolidation is initiated by the filing of the petition on or before April 1st. The two boards call, hold and canvass the election. If more than fifty per cent (50%) of the votes cast are in favor of consolidation, then the State Board formally orders the consolidation.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.