

Opinion No. 38-1858

January 8, 1938

BY: FRANK H. PATTON, Attorney General

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

{*207} Your letter of January 7th makes inquiry regarding status of contracts for transportation of pupils where such contracts have not had the approval of the State Board of Education and you quote a portion of Chapter 29 of the 1937 Session Laws which provides that such contracts shall not be valid or in effect, nor shall any payments be made under same unless and until the terms of the act have been met.

It would seem that the requirements of the approval of the State Board of Education is certainly one of the terms of the act, but regardless of this, I believe we are entitled to consider the intention of the Legislature and the purpose of the law as well as the language alone.

The act in its entirety grants the power to designate and establish transportation routes to the governing boards of education **with the approval of the State Board of Education**. No change is to be made in any transportation route except upon **approval by the State Board of Education or by order of the State Board of Education**, and, as above stated, the power to contract in the first instance is **with approval of the State Board of Education**.

All of this, in my opinion, goes to show that it was the intention of the Legislature to give a certain degree of control and supervision of transportation routes to the State Board of Education and in view of the language of the act and my interpretation of the meaning of the act, it is my belief that such contracts are not valid until they have had the approval of the State Board of Education.

I therefore approve your suggestion that the County Treasurer be notified to withhold payment for services rendered under contracts which have not had the approval of the State Board of Education.