Opinion No. 52-5513

March 12, 1952

BY: JOE L. MARTINEZ, Attorney General

TO: Mr. M. C. McBride Board of Education Grants Municipal Schools Grants, New Mexico

{*226} Recently you requested an opinion from this office as to who may vote in a school bond election.

Article 9, Section 11 of the New Mexico Constitution reads in part as follows:

"No school district shall borrow money, except for the purposes of erecting and furnishing school buildings or purchasing school grounds, and in such cases only when the proposition to create the debt shall have been submitted to a **vote of such qualified electors of the district as are owners of real estate within such school district,** and a majority of those voting on the question shall have voted in favor of creating such debt . . ." (Emphasis mine).

In my opinion this constitutional provision means that a voter in a school bond election must be a resident of the school district, an owner of real estate within the district, and be an otherwise qualified elector. There is no specific statute setting out other qualifications for persons voting in a school bond election. Therefore, in addition to the qualifications required by Article 9, Section 11, a voter in such election must be a "qualified elector" within the meaning of Sections 56-101 and 56-248 NMSA.

You will note that Article 9, Section 11 does not require that the elector shall have paid his property taxes before he may vote, and such requirement does not exist. However, under Sec. 55-721 NMSA the original petition calling for a school bond election must contain the signatures of "qualified electors of the district who shall have paid property tax therein during the preceding year." This particular distinction between voters in a school bond election and signers of the petition initiating such election should be noted.

For your information, this opinion follows, in part, Attorney General's Opinion No. 30, 1931-1932 and Attorney General's Opinion No. 3434, 1939-1940.

I hope that this opinion answers fully your questions on the subject.