

## Opinion No. 65-55

April 5, 1965

**BY:** OPINION OF BOSTON E. WITT, Attorney General Thomas A. Donnelly, Assistant Attorney General

**TO:** Mr. Vernon R. Mills, Superintendent, Clovis Municipal Schools, Clovis, New Mexico

### QUESTION

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May two school districts situate in the same county of the state hold school bond elections on the same day?

#### CONCLUSION

Yes, but see analysis.

### OPINION

#### {\*93} ANALYSIS

Article VII, Section 1 of the State Constitution bears in part upon the subject matter of your inquiry. This section states:

{\*94} " \* \* \* All school elections shall be held at different times from other elections. \* \* \*"

In addition, Section 73-8-20, N.M.S.A., 1953 Compilation, et seq. empower a school district to conduct an election to determine whether such school district may issue school bonds for schools in the district. Specifically, Section 73-8-22, N.M.S.A., 1953 Compilation provides:

"Upon receipt of said petition, the official body, to which the same shall be addressed, shall meet and determine the sufficiency of said petition and the genuineness of the signatures thereto and in the event of its affirmative finding of sufficiency thereof it shall order an election for said purpose to be held in said district at a designated time, which shall be not less than thirty nor more than fifty days after such finding, but in no event shall any such election be held on or within five days preceding or succeeding any general election held in the county. \* \* \*" (Emphasis supplied)

Scrutinizing the constitutional and statutory provisions cited supra, we find no prohibition or restriction which would preclude two or more school districts from scheduling and conducting school bond elections on the same days, month and year. The restrictions enunciated in both the constitutional and statutory provisions discussed are applicable

solely to "general elections" and not to special elections, such as school district bond elections.

In **Benson v. Williams** (1952), 56 N.M. 560, 246 P.2d 1046, the New Mexico Supreme Court observed that the term "general election" had reference to the biennial election for choosing state and county officials and state representatives in Congress. The State Constitution, Article XX, Section 6, states: "General elections shall be held in the state on the Tuesday after the first Monday in November in each even numbered year." See also **Roswell Municipal School District No. 1 v. Patton** (1936), 40 N.M. 280, 58 P.2d 1192.

Thus, after consideration of the authorities discussed above, we conclude that two or more school districts situate in the same county of the state may properly hold school bond elections on the same day. There may exist certain procedural difficulties, such as having access to voting registration records to determine whether property owners seeking to vote are qualified voters. However, while procedural problems may arise making the conducting of such elections difficult, we see no legal restrictions precluding such elections from being held on the same day or which would in any manner invalidate or cast a question upon the validity of such school bond elections.