

Opinion No. [29-84]

April 18, 1929

BY: M. A. OTERO, JR., Attorney General

TO: Mr. W. M. Beauchamp, County Clerk, Lovington, New Mexico.

SCHOOLS -- Bonds -- sale of.

OPINION

I have your favor of the 13th inst. inclosing a form of notice of sale of school bonds which you wish me to examine as to sufficiency, and in which you asked me whether or not this matter should be handled by the County Commissioners or by the County Board of Education.

In reply thereto I beg to advise as follows:

Section 701 of the School Code provides:

"The County Treasurer shall offer such bonds for sale after publication of notice of the time and place of sale."

The new law does not change this provision so it is evident that it is the Treasurer who issues the notice of sale, and signs the same as indicated on the form submitted. Furthermore, in the same section it is provided:

"At the place and time specified in such notice, the County Treasurer and the Chairman or Secretary of the Board to whom was presented the petition asking for the calling of election at which said bonds were authorized shall open the bids in public and the Board (evidently meaning the same board) shall award the bonds etc."

Then turning to section 702 of the School Code, we find the following:

"A petition in duplicate asking for the calling of an election must be filed * * * with the Board of County Commissioners in case of rural districts, and with the City Council or Board of Trustees in cases of Municipal districts, and with the Union High School Board in the case of Union High School districts, etc."

Therefore, as this is a rural district the Board of County Commissioners would be the Board which should award the bonds and not the County Board of Education, and hence the form submitted is correct.

In regard to the name of the financial paper in the City of New York in which to publish these notices, I would suggest "The Daily Bond Buyer", whose address is 67 Pearl

Street, New York City. This paper publishes all notices of the sale of highway debentures and all that sort of thing.