

## Opinion No. 31-103

March 28, 1931

**BY:** E. K. Neumann, Attorney General

**TO:** Mr. J. S. Bowers, Bernalillo County Public Schools, Albuquerque, New Mexico.

{\*56} We have your letter of March 24th regarding the proposed bond issue of School District No. 9 in the County of Bernalillo. As we understand, this district has voted to divide and it is assumed that the regular statutory proceedings were followed in this respect.

You wish to know if at this time such district has the right and power to float a bond issue for building purposes.

Section 120-805 of the New Mexico Statutes, Annotated, 1929 Compilation, sets forth the procedure to be followed in connection with changes and consolidations of school districts and further provides that the order of consolidation or change shall not be effective until July 2nd next following the making of such order. This of course refers to the order of the county board of education after the election has been held.

Under this the new district would not be in existence until July 2nd; however in this connection we wish to call attention to section 120-819 of the 1929 Compilation which is as follows:

"That for the purpose of voting bonds for the purchase of grounds and erection and furnishing of school buildings, such consolidation shall be complete from the time such order is signed by the county board of education as aforesaid, etc."

This section then validates school bond elections heretofore held between the time of signing the order and July 2nd and further provides that all bonds by authority of such elections are hereby validated, ratified and confirmed.

While the first section above referred to, viz, 120-805, specifically mentions consolidations and changes and while the other section only mentions consolidations, yet we believe that the intent of the act is the same in each instance and that under the latter section, is so far as the voting of bonds is concerned, the new district comes into existence for this purpose upon the signing of the order and may therefore proceed with its bond election and issuance.

We make no prediction as to the opinion of the bonding attorneys upon the sale of the bonds.

Trusting this is the information you desire, we are,

By Frank H. Patton,

Asst. Att'y General