

Opinion No. 31-87

March 18, 1931

BY: E. K. Neumann, Attorney General

TO: Hon. Byron O. Beall, Chief Tax Commissioner, Santa Fe, New Mexico.

{*51} In your letter of March 17th you desire information and advice regarding the appointment, by the State Tax Commission, of its member on the various County Boards of Tax Appraisers.

The County Boards of Tax Appraisers were created and established by virtue of Chapter 84, Laws of 1929. The phraseology of Section 1, in part, is as follows:

"There is hereby created and established in each County in this State a County Board of Tax Appraisers to consist of three members, one of whom shall be the County Assessor, one to be appointed by the Board of County Commissioners and one to be appointed by the State Tax Commission."

It is our opinion that the intention of the legislature was to provide for a three member board, and it is doubtful if a board consisting of a lesser number would be a substantial compliance with this statute.

It is readily apparent that should a three member board be in existence and only two members sitting as a quorum perform the acts of said board, that this would constitute the acts of said board. However, the situation at hand is radically different from the illustration, and we believe, therefore, that in order to comply with the statute, a three member board should be set up.

The act further provides that the boards shall, between the first day of February and the fifteenth day of April, view, list and value all taxable property. It is doubtful, in this connection, if the action of the board in so far as these duties are concerned, after the fifteenth day of April, would be legal and valid.

It is, therefore, the suggestion of this office that the statutory set-up be followed; that the Tax Commission appoint its member at once and that the various boards of County Commissioners be notified to comply {*52} with the statute and instructions given to have the boards begin their duties as soon as possible.

By Frank H. Patton,

Asst. Attorney General