

Opinion No. 35-913

February 25, 1935

BY: FRANK H. PATTON, Attorney General

TO: Mr. John R. Brand, Attorney at Law, Hobbs, New Mexico.

{*46} We have your letter of February 23rd making inquiry as to certain matters in connection with consolidation of two municipal school districts which you represent.

You are of course, familiar with the statute authorizing the consolidation of two contiguous municipal school districts, Chapter 22 of the Laws of 1933, which provides that the petition for consolidation and the elections thereon made and held in substantially the same manner as rural school district consolidations. The statute on consolidation of rural school districts provides that the petitions to call the election shall be signed by fifty percent of the qualified electors in each of the districts affected.

Your first question as to how the fifty percent of the qualified electors shall be estimated is not covered by the statute, and we believe that your suggestion as made in your letter is the most feasible one to follow; that is, to take the number shown on the last general election or last election where registration was required. Of course, if there has been an appreciable change in the electorate since the last election then this method might not be satisfactory.

It is our opinion that your assumption as stated in your question number two is correct, and that the whole matter of consolidation of the two municipal school districts should be handled jointly by the two municipal boards of education. This is specifically provided for in Chapter 22 of the Laws of 1933 in part, and is further provided for by Section 10, Chapter 119 of the Laws of 1931, amending Section 120-906 of the 1929 code, providing that the municipal school boards shall have the same powers and duties respecting its districts and schools as are possessed by county boards of education.

Your third question as to the effect of the consolidation upon bonds previously voted by one of the consolidating school districts raises some questions as to the practical effect of the consolidation. It is our opinion that as a matter of law, these bonds will not be affected. You will note however, that we have no provision as to what board shall be in charge and act for the consolidated district after consolidation, and if there is anything left to be done by the board with respect to the bonds already voted after July 2, 1935, when the consolidation would be effective, then we would suggest as a matter of precaution, that you make an effort to have the existing board to complete all matters with respect to the bonds now authorized before July 2, 1935, so that the bonding attorneys can raise no question as {*47} to the proper board acting on said bonds.

By: J. R. MODRALL,

Asst. Atty. General