

Opinion No. 41-3684

January 10, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Neil B. Watson Attorney at Law Artesia, New Mexico

{*24} Your letter of January 8, 1941, requests an opinion of this office as to whether or not members of municipal school boards are elected in the manner prescribed for municipal elections, or in the manner prescribed by law relating to school bond elections. Section 2, Chapter 183, Laws of 1939, "relating to the calling and conducting of school bond elections" in part is as follows:

"In municipal school districts the Boards of Education, in their discretion, may divide the district into two or more voting districts and, in such cases, shall designate in each thereof a polling place and appoint three election judges and two clerks in each of said voting districts."

Section 1, Chapter 182, Laws of 1939, "relating to the election of members of municipal school boards" in part is as follows:

"Said election shall be called by the municipal board of education and shall be called, held, conducted, returned, and canvassed by said board as in the case of officers in the respective incorporated cities, towns, and villages, except that no registration shall be required."

Section 1, Chapter 99, Laws of 1939, relating to voting divisions in municipalities, is as follows:

"In all municipal elections the same voting divisions shall be used as are used at general elections. If any such voting division be partly within and partly without the corporate limits of any municipality, then and in that event, that portion of such division as may be within the municipal limits shall constitute a voting division for the purposes of municipal elections. Provided, however, that nothing herein contained shall be construed as changing existing law as to wards or other municipal sub-divisions for the purpose of nominating aldermen, trustees, councilmen, or like municipal officers."

In my opinion, the election of school board members must be held "as in the case of (election) officers in the respective incorporated cities, towns," etc.; that is, it must be held in the same manner as a municipal election, and the same voting divisions shall be used as are used at general elections. If it is the desire of the people of this state to have school board elections and school bond elections conducted in the same manner, the Legislature may certainly amend Chapter 182, Laws of 1939, to so provide. Under the law as it stands, it is impossible for this office to presume that the statute relating to school bond elections applies to school board elections.

Your question with regard to the overlapping of school district and voting divisions is answered by Opinion No. 3426, copy of which I enclose herewith.

Hoping that the foregoing is of help to you, I remain

BY GEO. H. HUNKER, Jr.

Asst. Atty. Gen.