

School Districts—Census Children.

Section 1025 R. C. M. 1921 provides a separate and distinct method of creating a school district from that provided by section 1024, and the limitations as to census children and property valuation do not apply where a district is created wholly from an existing district.

J. H. Forster, Esq.,
Deputy County Attorney,
Malta, Montana.

August 21, 1926.

My dear Mr. Forster :

Your letter relative to the construction of sections 1024 and 1025 R. C. M. 1921 is at hand.

Originally, these two sections were combined in section 404 of chapter 76, laws of 1913. It seems clear that the legislature intended to provide two different methods of creating new districts, viz., where created from parts of two or more existing districts, or where created from part of one district.

In the first instance, the petition is addressed to the county superintendent of schools and must show that the proposed new district has at least ten census school children resident therein. In the second instance, the petition is addressed to the board of trustees of the district and nothing is said relative to the number of census school children.

Had the legislature intended that in the latter case there must be at least ten census school children residing in the proposed new district, it would seem that it would have said so when it prescribed the contents of the petition.

It is, therefore, my opinion that the provision regarding the number of census school children appearing in section 1024 cannot be read into section 1025, and that in the latter case it is not necessary that the petition show the number of school children residing in the proposed new district to be at least ten, as provided by the preceding section. It is sufficient if it shows the names of all children of school age residing within the boundaries of the proposed new district at the date of presenting the petition.

The approval or disapproval of the petition is discretionary with the board of trustees, subject to the right of appeal to the county superintendent.

Very truly yours,

L. A. FOOT,
Attorney General.