

COUNTY COMMISSIONERS - Authority to consolidate high school districts;
SCHOOL DISTRICTS - Procedure for consolidation of high school districts;
MONTANA CODE ANNOTATED - Sections 7-5-2103, 20-6-310, 20-6-315.

HELD: The board of county commissioners does not have authority to consolidate high school districts in a county. The procedure for such consolidation is set forth in section 20-6-315, MCA.

6 February 1985

Gerry M. Higgins
Golden Valley County Attorney
Golden Valley County Courthouse
Ryegate MT 59074

Dear Mr. Higgins:

You requested an opinion concerning the authority of the board of county commissioners under section 7-5-2103, MCA, to consolidate high school districts of a county after the repeal of section 20-6-310, MCA.

Section 7-5-2103, MCA, provides:

The board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to divide the counties into township, school, road, and other districts required by law; change the same; and create others as

convenience requires by consolidation of two or more townships or otherwise.

This statute, enacted in 1931, is located in the chapter describing the general operation and conduct of county government.

Section 20-6-310, MCA, was repealed by the 1983 Legislature. It stated:

The board of county commissioners of any county shall have the authority to consolidate any two or more high school districts of the county whenever it appears to them that it would be for the best interest of the pupils and other residents of the districts and the county. The board of county commissioners shall have complete responsibility and authority to determine all questions involved in effecting the consolidation of the high school districts, except that before it shall become effective any such boundary change shall be approved by the superintendent of public instruction.

This statute was located in the chapter governing school districts. In the same bill that repealed the above statute, House Bill 428, the Legislature enacted a new statute, section 20-6-315, MCA, which sets forth in detail the procedure to be followed when two or more high school districts in a county consolidate. It is my opinion that this section contains the exclusive method for consolidation of high school districts in one county. The mandatory language in section 20-6-315, MCA, demonstrates a clear legislative intent that consolidation of high school districts in one county be accomplished only under the procedures set forth therein:

Any two or more high school districts in one county may consolidate to organize a high school district. The consolidation must be conducted under the following procedure [Emphasis added.]

This section does not permit consolidation of high school districts by the board of county commissioners.

The language of section 20-6-315, MCA, is clear and unambiguous, and needs no further interpretation. Crist v. Segna, 38 St. Rptr. 150, 152, 622 P.2d 1028, 1029 (1981). Moreover, although section 7-5-2103, MCA, appears to give the board of county commissioners general authority to divide and change school districts, section 20-6-315, MCA, is more recent and more specific, and therefore controls. Dolan v. School District No. 10, 195 Mont. 340, 347, 636 P.2d 825, 828 (1981); Huber v. Groff, 171 Mont. 442, 461, 558 P.2d 1124, 1134 (1976).

The legislative intent with regard to House Bill 428 was clearly to abrogate the authority of the board of county commissioners to consolidate high school districts and place it in the hands of the electors of the high school districts.

THEREFORE, IT IS MY OPINION:

The board of county commissioners does not have authority to consolidate high school districts in a county. The procedure for such consolidation is set forth in section 20-6-315, MCA.

Very truly yours,

MIKE GREELY
Attorney General