

School Trustees. Trustees, Term of Office.

The term of office of trustees in school districts not of the first class, begins on the third Saturday in April and is for three years, and the trustees elect must qualify on or before that date.

Helena, Montana, March 13, 1906.

Hon. Henry R. Melton, County Attorney, Dillon, Montana.

Dear Sir:—I am in receipt of your letter of February 28th, submitting for the consideration of this office the following questions:

“What is the term of office of school trustees in districts other than school districts of the first class?”

“When, relative to the annual school election, does the term of office of school trustees in districts other than first class begin?”

Secs. 1770, 1782, 1791 and 1793 of the Pol. Code relate to this subject.

Sec. 1782 provides that the “Trustees elect shall take office immediately after qualifying and shall hold office until their successors are elected and qualified * * * Any trustee elected who shall fail to qualify within ten days after being elected, shall forfeit all right to the office.”

This section was amended by the Laws of 1897, page 143, which provides that the trustees shall hold office for three years, and extends the time in which they may qualify to fifteen days.

Said Sec. 1791 provides:

"The term of office of school trustees is three years from the third Saturday next succeeding their election."

Said Sec. 1770 as amended by laws of 1899, page 57 provides:

The "annual election for the election of school trustees shall be held * * * on the first Saturday in April."

Said Section 1793 as amended by the laws of 1899, page 59, provides:

"The school trustees shall meet annually on the third Saturday in April and organize by choosing one of their number as Chairman, and a competent person, not a member of the Board, as Clerk."

If said amended Section 1782 applies and is now in full force, the trustee elect may qualify and take office immediately after election, or he may, at his option, prolong the term of his predecessor for not exceeding fifteen days, and if he does qualify immediately after election, the new Board thus created cannot organize until two weeks later.

Furthermore, the election is held on the first Saturday in April. Fourteen days after that time the new board must meet and organize by choosing a chairman and clerk. If the fifteen day limit for qualifying is now the law it follows that the new board must meet and organize by transacting official business one day before the trustees elect are required to qualify.

Again, under the provisions of said Section 1791, the trustees elect do not take office until the third Saturday succeeding their election, which will be the fourth Saturday in the month, while, by the provisions of said amended Section 1793, "the school trustees must meet annually on the third Saturday and organize, etc." If both these sections are now law, we have this anomalous condition, that "the school trustees" must meet and transact official business one week before they become trustees, and before they have possession of any books or records, and before they have any right to make any official record. Either this, or else the old board must meet and perfect an organization for the new board and thus deprive the new board of the right to select its own chairman and clerk, and, the chairman must be selected from those who are trustees at the time of the meeting, it would be impossible to perfect such an organization in a case where none of the old trustees held over.

These various provisions of the statute cannot be harmonized. They are in hopeless conflict. To bring harmony out of chaos there appears to be no way except to say that, as the said act of 1899 amending said Section 1793 is the later act, it, by implication amends said act of 1897 and said Section 1791 and that the term of office of school trustees in districts not on the first class begins on the third Saturday in April and is for three years, and that the trustees elect must qualify on or before that date.

Very truly yours,

ALBERT J. GALEN,

Attorney General.