

New Counties, Percentage of Votes Required to Carry Election for. Votes, Percentage of, Required to Carry Election for New County.

The required percentage of votes cast in order to create a new county is fifty-one per cent. and this must be fifty-one per cent of the votes cast in the territory taken from each county, as an independent unit.

May 8th, 1913.

Hon. F. S. Webster,  
County Commissioner,  
Shawmut, Montana.

Dear Sir:

Replying to your letter of the 5th instant, in the matter of the creation of Wheatland County, wherein you inquire whether or not:

“First—Does the law require that the election be carried by sixty-five per cent of the votes of the electors, as required by the 1911 law—the election having been ordered before the passage of the act of 1913, or is it sufficient that the proposition be carried by fifty-one per cent of the votes cast; and,

“Second—Is it necessary to have the requisite per centage

of the total vote of the entire county, or must there be the required percentage of the votes cast in the territory taken from each county affected by the creation of the new county?" Sec. 4 of Chap. 133, Session Laws of 1913, provides:

"If upon a canvass of the votes at such election, it appears that fifty-one per cent of the votes cast where the proposed new county is formed from one existing county, or that fifty-one per cent of the votes cast in the territory taken from each county where the proposed new county is formed from two or more existing counties are "for the new county of (naming it), Yes," the board of county commissioners shall by resolution entered upon its minutes declare such territory duly formed and created as a county of this state," etc.

You are advised that in my opinion the law now requires but fifty-one per cent of the votes cast, in order to create a new county, and that, regardless of the fact that the proposition was initiated and the election called prior to the passage of the act of 1913. And, likewise it is clear from the section quoted that the proposition must be carried by fifty-one per cent of the votes cast in the territory taken from each county, as an independent unit.

Very truly yours,

D. M. KELLY,  
Attorney General.