

School Districts, Consolidation of. Consolidation, of School Districts.

Two or more school districts may be consolidated by annexation between the first day of March and the first day of September following of the same year, notwithstanding that Sec. 403 of the said law prohibits the formation of new districts within the said period.

July 14th, 1913.

Hon. B. E. Berg,
County Attorney,
Columbus, Montana.

Dear Sir:

I beg leave to acknowledge receipt of yours of the 11th inst., propounding this question:

"May two or more school districts be consolidated by annexation, as provided by Sec. 407, Chap. 76, Session Laws of 1913, between the first day of March and the first day of September following?"

It is true that there is an apparent conflict between Sec. 403 and Sec. 407 of the law in question.

Sec. 403 prohibits the creation of any school district between the first day of March and the first day of September following of each year, and Subdiv. 2 of Sec. 407 requires the posting of notice of an election upon the question "whenever the county superintendent of schools receives a petition signed and acknowledged by a majority of the resident freeholders of each district affected qualified to vote at school elections, praying for consolidation."

A new district, under the terms of this law, is a new corporate entity carved out of one or more old districts. It is the segregation of certain territory under a single board of trustees and named as provided in Sec. 400, Chap. 76, Session Laws of the Thirteenth Legislative Assembly. Necessarily it adds to the total number of school districts already existing. A consolidated district, under the terms of this act, is one which is brought into being by the fusion of two or more existing districts into one, under one board of trustees. The former process is bound to materially change the boundaries of the districts involved. A new apportionment of funds must be made, and the assessment of property must be made to conform with the new conditions. This furnishes a very good reason for prohibiting the formation of new school districts between the dates named, but in the case of consolidation of districts by annexation this reason does not exist, as the boundaries of the various districts are not changed and there is a continuation of the corporate entity of the old district, and the apportionment of funds and the assessment of the property could go on in the same manner and with no more confusion than was necessary where the consolidated district had previously existed as two or more districts.

For these reasons we have already held, in an opinion to Hon

J. D. Taylor, county attorney of Ravalli County, that "it was not the intention of the legislature that the provisions of Sec. 403, Chap. 76, Laws of 1913, should apply to the consolidation of school districts, but only to the formation of new districts," and we see no reason to revise that opinion now.

You are therefore advised, in answer to your question, that two or more school districts may be consolidated by annexation, as provided by Sec. 407 of Chap. 76, Laws of 1913, between the first day of March and the first day of September following of any year.

Very truly yours,

D. M. KELLY,
Attorney General.