

School Trustee, Vacancy in Office of. Trustee, Appointment to Fill Vacancy, Term of. Term of Office, School Trustee. Election, School Trustee, Manner.

If vacancy occurs in office of school trustee of third class district, county superintendent appoints until next annual election, and the successor is then elected for the unexpired term, but if the next annual election is the close of the term of office, then the appointee may hold over when necessary, under Sub. 9, Sec. 502, Chap. 76, Laws of 1913. The term in such cases "regularly" expires.

February 27th, 1914.

Hon. H. A. Davee,
State Superintendent of Public Instruction,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 17th instant, submitting the question:

"If a trustee dies during his term of office, and the vacancy is filled by appointment made by the county superintendent until the next annual election, for what term should the successor be elected?"

The answer is found in the section cited by you, to-wit: Subdiv. 5, Sec. 502, Chap. 76, Laws of 1913, which provides that:

"At such election there shall be elected a school trustee for the unexpired term."

The provisions of Subdiv. 9 of that section have no relation whatsoever to elections to fill vacancies. Said subdiv. 9 applies only at the close of a regular term. Where, however, the time for which an appointment is made by the superintendent to fill a vacancy extends to the end of the term for which the former trustee was elected, then the term "regularly" expires, but where there is a part of the term remaining after "the next annual election," an election is had "for the unexpired term."

Under Subdiv. 9, where the terms of all three trustees in a district of the third class expire at the same time, then one should be elected for one year, one for two years, and one for three years,

and thereafter each trustee should be elected for three years, and where the terms of two of the trustees expire, one of them holds over for one or two years, and one is elected for three years, so that thereafter one trustee is elected each year for three years. For example, if the trustee whose term does not expire has one year to serve, one of the trustees whose term does expire holds over for two years, but if the trustee whose term does not expire has two years yet to serve, then one of the other trustees whose terms do expire holds over for one year. It is to be determined by lot, as provided in said Sec. 9, which of the trustees hold over.

In case of a new district, at the first annual election of trustees, one trustee should be elected for one year, one for two years and one for three years.

Yours very truly,

D. M. KELLY,

Attorney General.