

**School Districts, Consolidation. Districts, Formation of. Consolidation of School Districts—Boundaries. Boundaries, of School Districts.**

Sec. 403, Chap. 76, Thirteenth Session Laws, applies only to the time within which new districts may be created and has no reference to the consolidation of existing districts, to joint districts or changing the boundaries of established districts. Where new districts are created, or the boundaries of existing districts are changed, there must remain in the old district at least \$15,000.00 of assessable property.

February 28th, 1914.

Hon. T. F. Shea,  
County Attorney,  
Deer Lodge, Montana.

Dear Sir:

Your letter of the 25th instant is at hand, wherein you request opinions upon the following propositions:

“Sec. 403, on page 216 of the Thirteenth Session Laws of Montana, provides: ‘No school district shall be created between the first day of March and the first day of September following each year.’ Does this have reference merely to the organization of new district as provided in Sec. 404, or does it also refer to the changing of the district boundaries, the consolidation of districts and the formation of joint districts as provided in Secs. 406, 407 and 408 of the late school law?

“Another question is, Does the provisions in Sec. 404 relative to the property limitations apply in the changing of district boundaries; that is, if a portion of a district is removed and attached to another district, must there remain

in the district from which the portion is detached, property of the assessed valuation of \$15,000?"

As to the first question, this office has already held in former opinions, copies of which are enclosed, that the restrictions provided by Sec. 403 of Chap. 76, Laws of the Thirteenth Legislative Assembly, apply only to the creation of new districts and not to the consolidation of existing school districts. The reasoning advanced in the opinions referred to applies with equal force to joint districts, and the changing of boundaries of established districts.

Upon the second question, an examination of Sec. 404 (Idem) discloses that it refers generally to the creation of new districts, and when this is done, the new territory must contain property of an assessed valuation of ten thousand dollars or more, and there must remain in the old district assessable property of the value of fifteen thousand dollars at least. The creation of new district, however, involves the changing of boundary lines, so much so as if the only purpose were to alter the lines of existing districts, to annex territory of one to another contiguous district. The boundaries of any district may not be changed, except in forming new districts, unless a majority of the resident freeholders in the territory which it is proposed to transfer or include present a petition in writing to the county superintendent. Since any changing of boundaries necessarily affects the territorial extent of the school district involved, it seems clear that no matter how the change is affected, there must remain at least fifteen thousand dollars of taxable property in the old district. Any other construction might operate to financially cripple existing districts to the extent of destroying the efficiency of their schools, by taking away taxable property to such an extent as to render inadequate the collection of necessary revenue to support them.

Yours very truly,

D. M. KELLY,  
Attorney General.