

**School Districts—Joint—Discontinuance Of—Debt—Division Of—New County—Roosevelt County—Funds, Division Of.**

School district cut by line of new county constitutes a joint district, which may be divided by joint action of authorities of each county.

Subdivision 3 of Section 408 of Chapter 196 of Laws of 1919 provides method for discontinuance of joint districts, and where portion has no resident freeholders, the same may be attached by order of County Superintendent to a contiguous district.

Subdivision 3 of Section 405, Chapter 196 of Laws of 1919 provides for division of funds and should govern, in that it was enacted subsequent to the act creating Roosevelt County.

May 17th, 1919.

Miss May Trumper,  
Supt. of Public Instruction,  
Helena, Montana.

Dear Miss Trumper:

You have referred to me for answer the letter of Miss Ellen Wilson, County Superintendent of Schools of Sheridan County, dated April 22nd, 1919, requesting an opinion regarding the status of certain school districts which you refer to as joint districts, made so by the creation of Roosevelt County, also if these districts are to be considered joint districts and what provision should be followed to discontinue them. How would the debt be divided in case of division and how would you proceed for the division of the district to form a new district or attach the remaining portion of the district to another district.

Answering the first question regarding the status of districts cut by a county line, I refer you to the opinion of the former Attorney General, Volume 3, page 135, in which it was held that districts so severed would be joint districts citing Section 844 of the Revised Codes. This provision of the Codes was brought forward in the amended law as sub-division 2 of Section 408 of the 1913 Session Laws, page 223. There was also provided in sub-division 1 of this section, a provision that:

“The joint districts (districts lying partly in one county and partly in another) may form in the same manner as other new districts, except that the petition must be made to the County Superintendent in each county, etc.”

Subdivision 2 of Section 408 of the School Law provides the manner of control where a district lies partly in one county and partly in another. In view of the foregoing, I am of the opinion that districts so divided are to be continued as joint districts, or should the patrons of these districts

so desire, they may be divided. There was no provision in the old law for dividing a joint district. In an opinion of the former Attorney General, it was held that this could be done only by the joint action of the authorities of each county. (See Opinions of the Attorney General, Volume 6 ,page 24.)

A provision in the present School Law, subdivision 3 of Section 408 of House Bill No. 303, 1919 Session Laws, provides a method of discontinuance of joint districts. If it is desired to discontinue a joint district, this provision of the law should be followed. You could then proceed to form a new district as provided in Sections 404 or 405 as the case may require, or proceed to change the boundaries thereof as provided in Section 406. Where the portion of the district consists merely of territory, with no resident freeholders, or where the number thereof is not sufficient to form a district, the same could be attached to a contiguous district by an appropriate order of the County Superintendent, which order should be properly certified by the County Commissioners.

In the manner of the division of the debt, the provisions of subdivision 3 of Section 405 relating to the division of funds and property and subdivision 4 thereof relating to the distribution of the indebtedness would apply where division was made. Insofar as these provisions are in conflict with the provisions of Section 4 of Chapter 23 of the Laws of 1919, an act creating Roosevelt County, I am of the opinion that the provisions of the School Law should govern, it having been enacted subsequent to the act creating Roosevelt County and repealing all Acts and parts of Acts in conflict therewith.

Respectfully,

S. C. FORD,  
Attorney General.