

School Districts, Joint—County Unit System.

Under the county unit system provided for by Chapter 211 of the 1919 Session Laws, joint school districts should be discontinued.

July 12th, 1919.

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

Dear Miss Trumper:

You have requested an opinion on the question of the present status of joint districts where one county in which a part of a district was located has adopted a county unit system provided for by Chapter 211 of the 1919 Session Laws. Section 2 of this Act provides:

“In any county of Montana, which shall elect to accept the provisions of this act, all school districts and *parts* of school districts of the *third class* and minor portions of any district of

the first and second class which are not contiguous to the main body of such districts, as herein provided, shall for the purpose set forth in this act, from and after the first day of July next following the acceptance of this act, together constitute a single district to be known as the 'Rural School District' of the county in which it is situated."

Although the expression "joint district" is not used in the Act it is apparent that the intent of the Act was to cover all of the territory embraced within a county and not included in districts of the first and second class, excepting the non-contiguous provisions thereof. Otherwise it is difficult to determine what was in the mind of the legislator when he used the expression "parts of districts of the third class," unless it was to embrace parts of joint districts within the county adopting the unit system, while there is a provision of law for disjoining these districts.

Sub-division 3 of Section 408, Chapter 76, 1913 Session Laws, as amended.

This is done by the joint action of the County Superintendent and Boards of County Commissioners of the several counties in which the district is located.

It is clearly within the power of the legislature to delegate this authority or to accomplish the same result by direct legislation and by operation of law disjoining these districts. As a matter of fact, joint districts were originally created by operation of law where a district was cut by creation of a new county line. Section 844, Revised Codes.

As these districts may be, and originally were, created joint by operation of law, so it appears that by giving this Act the effect intended these districts would be disjoined in counties adopting the Act as effectually as if done under the provisions of Subdivision 3 of Section 408 above referred to.

It is my opinion, therefore, that the legislature intended that the rural school district cover the entire county and all divisions thereof not expressly excluded and that this would necessitate the discontinuance of joint districts so far as that county was concerned, and that the affairs of these joint districts should be closed up as in other cases where a discontinuance of a district has been ordered.

Respectfully,

S. C. FORD,

Attorney General.