

County Assessor, Duty Of—School District, Property In.

It is the duty of the County Assessor to show by his books the school district in which each piece of property assessed is situated, when property created prior to the first of June of the year in which the assessment is made.

. July 25, 1919.

Mr. J. E. Kelly,
County Attorney,
Jefferson County,
Boulder, Montana.

Dear Sir:

You have requested my opinion as to the necessity of a County Assessor showing by his books the school district in which each piece of property assessed is situated where the school district was properly created and certified to by the County Superintendent prior to the first of June of the year in which the assessment is made.

It appears from your letter that a new school district was created and thereafter, as required by law, a certificate was filed with the County Commissioners showing the boundaries of the new district and the changes in in the boundaries of the old district to conform thereto. Subsequently, the board of the new district, under the provisions of Section 2002 of the General School Law, undertook to certify to the County Commissioners the amount of money needed to be raised in order to provide a necessary fund to maintain a school in the district. In order to determine the number of mills necessary to be levied it is first necessary to know the amount of the assessed valuation of the property within the district. They found, however, that the assessor's books had not been changed to show this and there was no property whatever whose assessment was credited to the new district.

Under the provisions of Section 403 no school district shall be created between the first day of June and the first day of September of any year. This provision was intended to prevent the creation of districts during that period in which the assessment and levy of taxes and the completion and extension necessary on the books were being made.

As the Assesor is not required to turn his books over to the County Commissioners until the second Monday in July when they meet as a Board of Equalization, and as his books when so completed are required to show the school, road, and other revenue districts in which each piece of property is situated, it would seem that the legislature intended to give time between the first of June and the second Monday in July in which to make any changes necessary in order to show what property was located in a newly organized district. This conclusion is further sustained by reason of the fact that it must have been intended that a new school district should have the necessary funds with which to hold school. Otherwise under that provision of the statute which requires a new district to hold school within eight months from the time of its creation or the district must be abandoned, this provision would be nullified, as no new district would have the means with which to comply with this provision.

I therefore agree with you in your conclusion that it is the duty of the Assessor to make this change on his books, although it may be an inconvenience for him to do so. Although the books have now been turned over, it would seem that the amount of assessable property in the new district could yet be determined so as to form a basis upon which to fix the special tax levy. Of course there will be, unless a change is made, a levy on this property under the district of which it was formerly a part, and as there is no provision for turning this over to the new district this would seem to be an additional reason for holding that the change must be made by the Assessor in every district created within the time allowed by law, and this should be done some time before the levy is required to be made.

Respectfully,

S. C. FORD,

Attorney General.