

**Opinion No. 30**

**SCHOOLS AND SCHOOL DISTRICTS; Elections, Trustees, additional—SCHOOLS AND SCHOOL DISTRICTS; High Schools, Districts, additional trustees—Section 75-4601, Revised Codes of Montana, 1947.**

- ° **HELD:** 1. In those high school districts which now have additional trustees, no new determination of their number is required until the valuation or class of the districts involved changes.
2. In each high school district which has additional members on its board of trustees, the full number of additional trustees, shall be elected the first Saturday in April, 1964, in the manner provided by Section 75-4601, R.C.M., 1947, as amended by Chapter 222, Laws of Montana, 1963.
3. An elector may vote for one additional trustee from each nominating district.

---

February 6, 1964

Miss Harriet Miller  
Superintendent of Public Instruction  
State Capitol  
Helena, Montana

Dear Miss Miller:

Chapter 222 of the Law of 1963 amended Section 75-4601, R.C.M. 1947 to provide for the popular election of additional members of the board of trustees for a high school district. That amendment became effective on July 1, 1963 and will apply to school elections held on the first Saturday of April of this year. In preparation for these elections, you have requested my opinion on the following questions:

1. Does the 1963 amendment to Section 75-4601, R.C.M. 1947 require the county superintendent of schools to make a new determination of the number of additional trustees to serve on a high school district board of trustees?
2. Should an election for additional trustees be held this year or should it be deferred until the expiration of the terms of the ad-

ditional trustees appointed under the provisions of Section 75-4601, R.C.M., 1947, prior to the 1963 amendment?

3. Is an elector entitled to vote only for the additional trustee residing in the elector's nominating district or may he vote for one trustee from each nominating district?

In answer to your first question, an examination of Chapter 222 of the Laws of 1963 indicates that no change was made in the manner of determining the number of additional trustees. Therefore, in those high school districts which have additional trustees on their boards, no new determination of the number of such trustees is required unless and until the valuation or class of the districts involved changes. It should also be observed that the statute still provides that there shall be additional trustees for high school districts only "when a majority of the common districts in the high school districts so request."

Prior to the 1963 amendment to Section 75-4601, R.C.M., 1947, additional trustees were elected by the boards of trustees of all of the common school districts located within the high school district. The additional members so elected were to hold office for three years. The 1963 amendment changed this statute in two respects. It provided for popular election of the additional trustees and it also provided that each trustee nominating district should be entitled to one member on the board of trustees. It is clear that the intention of the legislature in enacting this amendment would not be fulfilled by allowing the present trustees not elected by popular vote to complete their term. Had the legislature intended that the additional trustees appointed prior to the 1963 amendment complete their terms before being replaced by trustees elected by popular vote, it would have been a simple matter to so indicate. Since they did not so indicate, I am of the opinion that the full number of additional trustees must be elected on the first Saturday of April of 1964.

The 1963 amendment provides that:

"Any qualified elector of any nominating district, excluding the district where the high school is located, may vote for the additional trustees so nominated . . . **provided that each elector may vote for no more than one such additional trustee from each trustee nominating district.**" (Emphasis supplied)

The amendment also provides that the ballots must clearly indicate the trustee nominating district from which each nominee is a candidate. It is my opinion that this amendment entitles an elector to vote for one additional trustee from each nominating district.

I therefore hold:

1. In those high school districts which now have additional trustees, no new determination of their number is required until the valuation or class of the districts involved changes.

2. In each high school district which has additional members on its board of trustees the full number of additional trustees shall be elected the first Saturday in April, 1964, in the manner provided by Section 75-4601, R.C.M., 1947, as amended by Chapter 222, Laws of Montana, 1963.

3. An elector may vote for one additional trustee from each nominating district.

Very truly yours,

FORREST H. ANDERSON  
Attorney General