

OPINION
48-119

January 28, 1948 (OPINION)

EDUCATION

RE: Reorganization - Tenure of Office of Existing Boards

This will acknowledge your letter of January 22, in which you quote a part of section 22 of chapter 147 of the 1947 Session Laws, which reads:

* * *prior to the completion of the reorganization of any school district under the provisions of this act, the existing school board of any school district shall not contract or place such district under any obligation, except upon the recommendation of the county committee.

In this connection you ask this office to advise you when this disability attaches to the powers of the existing board.

Section 22 of chapter 147 of the 1947 Session Laws states that after the establishment of any new school district the school board of such new district shall be elected at the regular annual election. Then it goes on to state the manner in which such election shall be held in a common school district and in a special school district. The section then goes on and states:

Members of school boards elected in the newly reorganized districts shall not enter upon the duties of such office until the time specified in Section 22 of this Act."

Then the section also says:

School boards in original school districts included within a reorganized district shall continue and remain in existence until the time specified in Section 22 of this Act, at which time the new school board elected for the newly reorganized district as provided in this section shall become the governing body of such school districts;* * *."

The portion with which you are concerned has already been set forth.

It seems to me that reference to section 22 in section 22, where it occurs, is a typographical error that occurred in the original bill and has been carried into the printed edition of the 1947 Session Laws. Undoubtedly the reference in section 22 relates to section 23 of the act, which is as follows:

Any reorganization plan voted upon and approved shall become operative and effective on the first day of July succeeding final approval of the same."

The reorganization plan becomes effective and is finally approved as indicated in section 24 of the Act. The disability of the existing school board or boards in any reorganized school district would

attach when the plan has been finally approved, but before July 1 succeeding approval. The approval may come after time for annual election, for instance, after July 1 of any year. Thus there is an intervening time between the election of the board to govern the newly organized district and the time that it shall take over the government of the newly organized district. It is during this intervening time when the reorganization is not complete, in the sense that it has not become operative, as provided by section 23 of the Act, that the existing school board or boards of the newly organized school district would have to procure the approval of the county committee of any contract which may place such newly organized district under any obligation.

This approval by the existing school boards would involve teachers' contracts as well as other contractual obligations of the district. As I understand this section, the existing school board or school boards of any newly organized school district with the approval of the county committee continue to function even after the election of a new school board and until July first of the year of the final approval of the newly organized district, as provided by section 24 of the Act.

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