

ployed by Indiana in such program, that the above appropriation by the Indiana legislature may not be used for the payment of such salaries.

OFFICIAL OPINION NO. 47

June 19, 1952.

Honorable Herman C. Evans, Senator,
815 So. Stull Street,
Bloomington, Indiana.

Dear Sir:

Your letter of June 4, 1952 has been received and reads as follows:

“The following questions being herein submitted arise under Acts 1947, Chapter 123 as amended by Acts 1949, Chapter 268 and Acts of 1949, Chapter 227, of the Indiana General Assembly.

“Acts 1949, Chapter 268, Sec. 3, page 972 (Burns' Sec. 28-5903) makes provision for elections to be held on the question of consolidation under this Act, after the giving of legal notice as provided for therein:

- “1. Is it mandatory on the trustees who have been presented with the petition and resolution to give the legal notices as provided? If so, when must the legal notice be given with reference to the time said petition and resolution are properly presented to and received by the trustees?
- “2. Can the trustees who have been properly presented with the petition and resolution to consolidate under said Chapter 268, then *proceed* to consolidate under said Chapter 227?
- “3. Where all trustees of township schools in a County pass a resolution for consolidation under said Chapter 227, when does consolidation under said Chapter 227 actually take place? If before consolidation takes place under said Chapter 227, fifty legal voters

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in one school corporation join with fifty legal voters in one or more other school corporations in presenting their resolution and petition for consolidation under said Chapter 268, which would have preference, if any?"

1. In answer to your first question, attention is called to the provisions of Section 28-5903, Burns' 1951 Supplement, same being Sec. 3, Ch. 268, Acts 1949, which provides in part as follows:

"Whenever a petition is filed, in one (1) or more of the school corporations protesting such consolidation as hereinbefore provided in this act (§§ 28-5901—28-5913), by the legal voters of any school corporation, the trustees of which propose to consolidate, then the trustees in each such school corporation in which such protest petition is filed shall call an election of the voters of such school corporation, for the purpose of determining whether a majority of the legal voters of such corporation are in favor of consolidating said schools."

Nowhere in the above statute is there any specified time in which such trustees shall call such election. I am therefore of the opinion such election must be called within a reasonable period of time.

2. An examination of Chapter 268 of the Acts of 1949 *supra* and those of Chapter 227 of the Acts of 1949 (Sec. 28-804a, Burns' 1951 Supp.) fails to disclose any provision prohibiting pending proceedings before the trustees regarding consolidation statutes. I am therefore of the opinion more than one plan of consolidation could be before such trustees in their preliminary stages and the one which would control would be that plan which first became effective and such consolidation consummated.

3. In answer to your third question, a consolidation by resolution of all trustees of the township schools in a county under the provisions of Chapter 227 of the Acts of 1949, becomes effective and is consummated under the specific provisions of that part of Section 28-805 Burns' Supplement (being Section 1 of said statute) which provides:

“* * * That whenever the township trustees shall meet in a regular meeting not later than May 1 of each and every year, the matter of organizing the schools of any county in the state of Indiana as a county school corporation shall be considered if no such corporation is in existence in said county, and if they desire to so consolidate the schools of the county they shall adopt a resolution to that effect and give notice by publication in two (2) successive publications in two (2) weekly newspapers published in said county giving notice of their intention. The township trustees, upon the call of the county superintendent of schools, shall meet two (2) weeks following the date of the appearance of the last publication notice of intention to so incorporate the schools of the county. If no protest has been filed, which protest shall be deemed to mean five (5) per cent of the legal voters of each and every school township of said county as of the date of the last general election, they shall then and there declare by their own vote that such incorporation of schools of the county is accomplished the same to take effect in sixty (60) days following. In the event a protest shall have been filed with the township trustees within the said sixty (60) days, then and in that event the board of election commissioners shall call a special election for the purpose of determining the will of the legal voters of the school county. Further and in the event a majority of the votes cast at such election shall approve the desire of the township trustees, then a county school corporation shall become effective immediately. Further and in the event five (5) per cent of the legal voters of any school county in the state of Indiana which petition shall be deemed to mean five (5) per cent of the legal voters of each and every school township of said county shall petition the township trustees to hold a referendum at the next general or primary election upon the question, ‘Shall the school townships of _____ County merge, consolidate, and cease to exist, thus forming a new county school corporation for _____ county?’ and if upon the referendum thus taken a majority affirmative vote is cast on said referendum, said county school corporation shall be

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deemed to be in effect immediately and the township trustees shall proceed at once to organize as a county board of education for the administration of the schools in the county in which the referendum was taken."

Under the above provisions there are two possible dates when said consolidation could become effective: 1) If there is no protest filed against the action of the trustees the trustees shall meet two weeks following the date of the appearance of their last publication of notice of intention to consolidate and shall then declare that such incorporation is accomplished to take effect sixty (60) days following. 2) A protest may be filed either prior to said meeting of the trustees or within said sixty day period aforesaid, in which case a referendum vote shall be held at the next general or primary election upon the question, and if such vote is in the affirmative said consolidation immediately becomes effective.

The answer to the second part of your third question is contained in my answer to your question Number 2.

OFFICIAL OPINION NO. 48

June 20, 1952.

Honorable Cable G. Ball,
Joint Representative,
Tippecanoe and Warren Counties,
34 Lafayette Loan & Trust Building,
Lafayette, Indiana.

Dear Sir:

I have your request for an official opinion which reads as follows:

"May the City of Lafayette, the City of West Lafayette and the Trustees of Purdue University validly, under existing statutes, either jointly construct and use a sewage disposal plant or, if construction can be accomplished by only one or by any two of these entities, may the other or others under such circumstances by