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CLARENCE A. BRIMMER
ATTORNEY GENERAL

June 20, 1973

Mr. Donald Hood
Executive Secretary
State Conservation Commission
2219 Carey Avenue
Cheyenne, Wyoming 82001

Dear Mr. Hood:

Your letter of May 4, 1973, addressed to Mr. Sterling A. Case, Deputy Attorney General, requesting the assistance of this office in determining the responsibility of the State Conservation Commission under the new Election Code has been referred to me for answer.

Concerning questions numbers 1 and 2, it would appear that there is no restriction in Section 11-243.1 of the Conservation Commission Act which would prohibit any person, organization or agency from seeking a resolution of the Boards of County Commissioners of each county to place the election of District Supervisors on the General Election ballot. This could be initiated by the State Commission. Each board involved must, however, adopt such a resolution. Also, in preparing sample ballots for use by the County Clerks, you should obtain the approval and agreement of each County Clerk before proceeding. This is a good suggestion and will result in some uniformity and I can see no reason why the County Clerks would not agree to it.

As for the remaining two questions, there is a much greater problem involved. As you know, districts are formed by the filing of a petition of any ten landowners with the State Commission (Section 11-240). A hearing is then held and upon a favorable result for the formation of the district at the hearing, the Commission sets the boundaries. A referendum election is then held within the boundaries of the proposed district (Section 11-240c) and if such election is favorable, the district is established by the Commission and supervisors are appointed.

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The Commission, under the Act, also has the power after a majority vote of the supervisors of the district to:

"(a) To transfer lands from one district established under the provisions of this act to another,

"(b) To divide a single district into two or more districts, each of which shall thereafter operate as a separate district under the provisions of this act, and

"(c) To consolidate two or more districts established under the provisions of this act, which consolidated area shall operate thereafter as a single district under the provisions of this act. . . ."

The Commission may also dissolve a district after five years upon petition of any ten landowners and after a hearing and a referendum election.

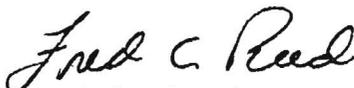
The Commission does not, however, appear to have statutory authority to change boundaries along county or precinct lines once they are established except as such a change could be made according to subparagraph h quoted above if it would work out that way, which it would probably not in all instances. In addition, the petition and hearing and referendum election pertains only to the dissolution of a district and not a change in boundaries.

The problem presented is really based upon the fact that the districts are not now based along county lines, are not required to be, and are already in existence. If these boundaries cannot be changed to conform to the county lines, and the statutes would not seem to allow it, in all cases, then the election of supervisors at the general election as allowed by the Election Code would result in some landowners voting in two or more counties which is not contemplated by the Election Code. Nor does the Election Code replace the referendum elections contemplated in the Act for the establishment and dissolution of districts and the adoption of district ordinances. A special referendum election must be held for the purposes pursuant to the Act and the question again arises as to where landowners vote within the district when that district crosses county boundaries.

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I am afraid that I do not have a ready solution to these problems, but would like you to know that school districts, irrigation districts, watershed districts, as well as other special districts have the same problem. It is my understanding that prior to the next session of the Legislature, the Elections Committee of the Legislature and the Secretary of State will be holding a meeting to determine the approach to be taken at the next session of the Legislature in remedying the situation. I would suggest that you contact the Secretary of State and request to be included in this meeting.

Sincerely yours,



Fred C. Reed
Assistant Attorney General

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