

certified statement of the amount of moneys appropriated for school purposes "for the *school year* for which such appropriations are made * * *." (Emphasis added.) The moneys appropriated for local school purposes are paid by the municipality to the custodian of school moneys on this basis: 20% of the annual appropriation must be paid within 40 days after the beginning of the school year, and the remainder is paid from time to time as requested by the board of education, but prior to the last day of the school year. N.J.S.A. 54:4-74.

It is noted that R.S. 18:7-79 provides for a different method of raising taxes for school purposes applicable to some of school districts which operate under the provisions of Chapter 7 of Title 18 of the Revised Statutes, commonly known as Chapter 7 school districts. This section permits the raising of taxes in a calendar year to cover school budget needs during the same calendar year, that is to say, for the last half of the preceding fiscal school year and for the first half of the ensuing fiscal school year. However, assuming but not deciding, that the provisions of R.S. 18:7-79 may be made applicable to a regional school district by virtue of the reference to Chapter 7 in R.S. 18:8-14, the consolidated school district in question has been appropriating moneys on a fiscal school year basis and the appropriation for the regional school district has been made for the fiscal year beginning July 1, 1963.

It is evident that although the municipalities still comprise a consolidated school district at the time the commissioner of education certifies the average daily enrollment for purposes of the apportionment, the resultant taxes will be utilized for the ensuing school year, commencing July 1. The taxes raised will be supporting a regional school district. Logic dictates that if the taxes are to be expended to support a regional school district they should be apportioned according to the regional school district law.

In our opinion, therefore, in this case the taxes to be raised in the 1963 tax year for the fiscal school year of the regional school district beginning July 1, 1963 should be apportioned on the basis selected by the voters of that district. As noted above, the apportionment basis selected was that of average daily enrollment of pupils from the constituent municipalities in the regional school district.

Very truly yours,

ARTHUR J. SILLS
Attorney General

By: JOSEPH A. HOFFMAN
Deputy Attorney General

JULY 19, 1963

HONORABLE ROBERT J. BURKHARDT
Secretary of State
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-3

DEAR SECRETARY BURKHARDT:

We have been asked whether voting machines equipped with the printed return mechanism manufactured by the Automatic Voting Machine Division of the Rockwell

Manufacturing Company may lawfully be used in this state. As indicated below, we conclude that an examination of the machine by three examiners pursuant to R.S. 19:48-2 is required before approval or disapproval of the new machine can be given.

R.S. 19:48-1 states the substantive standards which must be met by voting machines to be used in this state. R.S. 19:48-2 provides a procedure for determining whether the substantive standards are met in a given case. The Secretary of State must have the voting machines which are proposed for use in New Jersey examined by three examiners whom he appoints. One must be an expert in patent law and the other two must be mechanical experts. These three experts must file a written report. The Secretary of State considers this report, makes his own examination of the machine, and files a report, attached to which must be the report of the three expert examiners, stating whether the machine proposed for use lawfully may be used.

On October 21, 1935, the basic voting machine manufactured at that time by the Automatic Voting Machine Corporation was found lawful for use pursuant to L. 1935, c. 302, the predecessor of R.S. 19:48-2, by then Secretary of State Thomas A. Mathis. The statute provides:

"When the machine has been so approved, any improvement or change that does not impair its accuracy, efficiency or capacity, shall not render necessary a reexamination or re-approval thereof."

The printed return mechanism of the new machine permits the recording of the readings of the counters on the back of the machine both at the opening of the polls and at the close. The manufacturer contends that the addition of the printed return mechanism in no way impairs its accuracy, capacity or efficiency. However, it must be admitted that physically it is an extensive addition to or modification of the original machine. An examination should be made to determine whether or not the machine as modified permits the custodians of the machines and the district boards of elections to perform the duties imposed by R.S. 19:48-6 and R.S. 19:52-1 with respect to checking the proper setting of machine counters.

Since a question is raised as to whether the printed return mechanism has so altered the machine as to render it incapable of meeting the substantive requirements of our election laws, the procedure for examination prescribed by R.S. 19:48-2 should be followed. We understand that the manufacturer has stated in a communication to you that if you feel reexamination of the machine is required, that the letter from its vice president to you dated March 4, 1963 should be considered an application to have the machine formally examined.

We therefore advise you to follow the procedures for examination referred to briefly in this opinion and more fully described in R.S. 19:48-2. Any legal questions that may arise in connection with the examination, particularly whether the Automatic voting machines equipped with printed return mechanisms meet the substantive standards imposed by R.S. 19:48-1 or other sections of the election law, should be referred to us for advice.

Very truly yours,

ARTHUR J. SILLS
Attorney General

By: WILLIAM L. BOYAN
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