

**OPINION  
62-93**

January 27, 1962 (OPINION)

**ELECTIONS**

**RE: Judges and Inspectors of Elections - Appointment**

This is in reply to your letter in which you state that a question has arisen regarding the judges and inspectors of elections in a situation where the county commissioners have combined two or more voting precincts under section 16-09-01 of the 1961 Supplement to the Century Code. The question is who will be the inspectors or who will appoint the inspectors and the judges in the newly created precincts?

Basically, the inspector for election precincts, other than in cities or villages, is the chairman of the board of the township supervisors. He is the inspector designated by law. If there is more than one precinct in an organized township, the chairman is the inspector for the precinct in an organized township, the chairman is the inspector for the precinct in which he lives and appoints inspectors for the other precincts. The inspector also appoints the judges, however, if the chairman of the county committee of the two parties receiving the highest vote present a certificate of nomination for certain persons to be appointed as judges, the inspector shall appoint the same persons as judges (section 6-10-08).

Section 16-09-01 provides as follows:

BOARD OF COUNTY COMMISSIONERS MAY DIVIDE COUNTY INTO PRECINCTS - PRESERVATION OF BOUNDARIES - NUMBER OF ELECTORS - WHEN MAY REDIVIDE, ANNEX, VACATE OR COMBINE VOTING PRECINCTS. The board of county commissioners may divide the county into precincts and establish the boundaries of the same except where, pursuant to the provisions of title 40, Municipal Government, wards and precincts have been legally established. The entirety of civil townships, cities, or villages shall be preserved as precincts except when such preservation would be in conflict with the provisions of this chapter. In such case, the civil township, city, or village, except as provided in this chapter, shall be divided into two or more precincts, but in no case shall a precinct be composed of parts of two civil townships, or part of a township and of a city or village, except as provided in this chapter. No precinct in which voting machines are not used shall contain more than five hundred electors. It is further provided that the board of county commissioners may redivide the county into precincts, annex an existing precinct to another existing precinct, or combine two or more existing precincts one to another when

1. A petition signed by seventy percent of the electors residing within an existing precinct is presented requesting such existing precincts to be annexed to and become a part of another existing precinct;
2. In the board's discretion, prompted by inaccessibility of

polling places, difficulty in obtaining election boards, or economic infeasibility, an existing precinct may be annexed to and become a part of another existing precinct; or

3. The board of county commissioners may combine in their entirety two or more adjoining civil townships into one voting precinct with a common polling place for all elections other than township or school district elections or as otherwise provided by this chapter." (Underscoring ours.)

The underscored portion is all part of the new provision as amended by the 1961 Legislature. We note that the new language provides for annexation of a precinct to another existing precinct. This, in effect, makes it part of the precinct to which it is annexed. The precinct being "annexed" loses its identity for election purposes and becomes an integral part of the precinct to which it is annexed. From the underscored language, it appears eminent that the precinct being annexed is absorbed by the precinct to which it is annexed. By way of illustration, assuming precinct "A" is absorbed by "B" and becomes an integral part of "B", and for election purposes comes under the jurisdiction of "B". Precinct "B", together with the precinct attached to it is one precinct. Being that "B" absorbed precinct "A", this newly created precinct assumes the identity of the surviving precinct, "B".

It is, therefore, our opinion where annexation is pursuant to subsections 1 and 2 that the chairman of the board of township supervisors located in the precinct to which the precinct is being annexed shall serve as inspector, and in certain instances, appoint inspectors where required.

It is our further opinion that he appoints the judges for such precincts in accordance with the provisions of section 16-10-08.

However, where the county commissioners combine two or more civil townships into one voting precinct, pursuant to subsection 3 above, a different conclusion is reached. Under this subsection, one township is not annexed to another. They are combined with no survival for either township. It is, in this respect, a new precinct. Inasmuch as the joining is for election purposes, it seems only proper that the county commissioners who may join them are also responsible and have the powers and responsibilities to carry out the necessary incidentals thereto. This would include designating the inspector. In designating the inspector, the county commissioners may give weight to the place where the polling place will be located, but this is not mandatory. The question of who shall be the inspector is a direct outgrowth of the jointure. The same body which creates the situation should have the power and responsibility to resolve it. This is not a situation where the county commissioners are required to join civil townships under certain conditions.

The designation of an inspector, we believe, is part of the jointure. It is, therefore, our further opinion where two or more civil townships are joined into one voting precinct for other than school or township purposes, that the county commissioners shall designate the inspector for such new voting precinct. The inspector is then

empowered to appoint election judges pursuant and in accordance with  
section 16-10-08

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