



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN**

**GERALD C. MANN
ATTORNEY GENERAL**

Honorable Roy L. Hill
County Attorney
Ballinger, Texas

Dear Sir:

Opinion No. O-1816
Re: Federal Wage and Hour Law as
applied to school districts
of Texas.

We have your letter of January 4, 1940, making inquiry of this department on behalf of the Ballinger Independent School District. You enclose a letter to you on behalf of the Board of Trustees of the school district, from which we are advised as follows:

"The Board of Trustees of the Ballinger Independent School District desire to invoke an opinion from the Attorney General of Texas as to whether or not their tax collector and assistant tax collector come within any class of employees mentioned in the so-called wage and hour law enacted by the Federal government.

"These people do not teach or directly assist in teaching school but perform all the duties of the official tax collector of the school district and do all of the clerical work of the school board, such as keeping the minutes of the board meetings, keeping the books of the school system and etc."

You are advised that the Federal Wage and Hour Law enacted June 25, 1938, same being Section 201 to 219 of Chapter 8, Title 29 of the U. S. Code annotated, does not affect State independent school districts at all. This is because of Sec. 203 subdivision (d), which is as follows:

"'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

It will be observed at once from this definition of "employer" that it does not include state or political subdivisions of the State. Therefore, the Act will not apply to school districts if they are political subdivisions of the State.

In the case of King's Estate, et al, v. School Trustees of Willacy County, et al, 33 S. W. (2) 783, it was held that school districts are political subdivisions of the State. This case was decided by the San Antonio Court of Civil Appeals, in which writ of error was refused, and seems to be in keeping with the general rule. For this reason, you are advised that the tax collector and assistant tax collector of the Ballinger Independent School District do not come within the provisions of the so-called Wage and Hour Act of the Federal Government.

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED JAN 22, 1940

By 

Grover Sellars
Assistant

GS-MR


F. C. MOORE
ASSISTANT
ATTORNEY GENERAL