



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN

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ATTORNEY GENERAL

Honorable T. M. Trimble
First Assistant State Superintendent
Austin, Texas

Dear Sir:

Opinion No. 0-3764

Re: Whether scholastic enrollment may be transferred without consent of board of trustees of sending district.

In your letter of July 14, 1941, you direct our attention to Section 1 of Article 8, House Bill 284, 47th Legislature, (Equalization Law, 1941-43), reading as follows:

"For the school year 1941-42, upon the agreement of the Board of Trustees of the districts concerned or on petition signed by a majority of the qualified voters of the district and subject to the approval of the County Superintendent, State Superintendent, and Joint Legislative Advisory Committee, the trustees of a district which may be unable to maintain a satisfactory school may transfer its entire scholastic enrollment, or any number of grades thereof, to a convenient school of higher rank, and in such event, all of the funds of the district, including the State Aid to which the district would otherwise be entitled under the provisions of this Act, or such proportionate part thereof as may be necessary shall be used in carrying out said agreement; provided that no aid shall be allowed for teachers that are not actually employed in the contracting schools."

You request our opinion in response to the following questions:

"Under the provisions of the Equalization Law referred to above, may the majority of the qualified voters of a school district enter into a contract with another school district to teach their students, even though the majority of the Board of Trustees of the school district to be contracted object to making the transfer?"

"If the majority of the qualified voters of the district have the authority to contract their school with an adjoining district how may the funds of the sending district be transferred to the receiving district over the protest and without the signature of the Board of Trustees of the sending district, who have refused to sign the contract?"

We answer your first question in the negative. Under the quoted terms of the Act, the board of trustees of the sending district is the body which is clothed with authority to make the ultimate transfer, and its action is indispensable. We are sending you a copy of our Opinion No. 0-3814 concerning a similar question.

This renders unnecessary an answer to your second question.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Glenn R. Lewis
Glenn R. Lewis
Assistant

GRL:db:wc

APPROVED AUG 7, 1941
s/Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee By s/BG Chairman