



**THE ATTORNEY GENERAL
OF TEXAS**

GROVER SELLERS
~~WILLIAMSON~~
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable R. V. Rayford
County Auditor
Rusk County
Henderson, Texas

Dear Sir:

Opinion No. 0-7187

Re: In a Special Election held to determine whether or not an Independent or Common School District shall annex themselves to a Junior College District, the election expense shall be borne by whom? Also, who pays the election expense when two or more Common or Independent School Districts seek to consolidate?

We have your letter of June 19, 1946, requesting our opinion on the following questions:

"In a Special Election held to determine whether or not an Independent or Common School District shall annex themselves to a Junior College District, please advise me who pays the cost of the Election (Advertising, Supplies, Judges and Clerks), the County, the School Districts and or the Junior College District?

"Also, who pays the cost of Elections when two or more Common or Independent School Districts seek to consolidate?"

In response to your first question, your attention is directed to Section 21 of Article 2815h, Vernon's Annotated Civil Statutes, which sets out the procedure for annexation of a District to a Junior College District.

"An Independent School District, or districts, a common school district or districts, may be annexed to a Junior College District for Junior College purposes only, by an election as provided in Section 2 hereof, upon petition of five per cent of the property tax-paying voters in such district or districts seeking to be annexed, provided further that such annexation shall have been previously approved by the Board of Trustees of the Junior College District and provided

further that election for such annexation shall be called and the results canvassed and declared by the County Board of Education or the County Commissioners' Court of the county, in case there is no County Board of Education, provided further that the territory included in such annexed district shall thereby assume its share of any outstanding bonded indebtedness of the Junior College District, in proportion to the assessed valuation within the said district, and shall also become liable for taxes for maintaining the Junior College."

Section 2, Article 2815h, V.A.C.S., referred to in the above statute, provides the method of petition for election.

"When it is proposed to establish a Junior College District as above provided, a petition praying for an election therefor, signed by not less than five per cent of the qualified tax-paying voters of the proposed territory shall be presented to the Board of Education of the district or city. It shall thereupon become the duty of the Board so petitioned to pass upon the legality of the petition and the genuineness of the same. It shall then be the duty of the Board to forward the petition to the State Board of Education."

Article 2746, V.A.C.S., relates only to elections held for the purpose of electing trustees. We are unable to find any authorities authorizing the Commissioners' Court to pay for elections of this kind out of the general fund of the County. It is apparent that the Legislature, in passing Art. 2746b, Revised Civil Statutes, enacted in 1935, intended to cover such expenses from the available maintenance fund belonging to the District holding the election.

Article 2746b, V.A.C.S., provides as follows:

"All expenses incurred in connection with or incidental to any school district election in connection with the public school within such school district shall be paid out of the available maintenance fund belonging to such district for the fiscal year during which such election is held, or out of funds accruing to said district for the next ensuing fiscal year; provided, however, that the payment of any such expenses out of the funds accrued or to accrue to such school district for the fiscal year after the year in which such election is held shall

be authorized by the county superintendent prior to the holding of such election. Acts 1935, 44th Leg., p. 135, ch. 55, § 3."

It is, therefore, the opinion of this department that the expense which was incurred as a result of the election which you mention should be paid out of the available maintenance fund of the respective district holding the election.

In response to your second question as to who pays the cost of elections when two or more Common or Independent School Districts seek to consolidate, your attention is called to Art. 2806, V.A.C.S., which authorizes elections for consolidation of certain school districts.

Articles 2746, 2746a and 2746b, V.A.C.S., are devoted to school district elections and expenses incident thereto. Article 2746, supra, states "such expense shall be paid out of the local funds of the school district where the election was held."

It is the opinion of this department that all election expenses incurred by school districts must be paid out of the available maintenance fund belonging to the school district or districts or the local funds of the school district or districts where the election was held as authorized by said statute.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By s/W. P. Watts
W. P. Watts,
Assistant.

WPW:rt:wc

APPROVED JULY 5, 1946
s/Carlos C. Ashley
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee By s/GWB Chairman