



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

**January 4, 1960**

Honorable Henry Wade  
District Attorney  
Records Building  
Dallas 2, Texas

Opinion No. WW-763

Re: Whether or not Senate  
Bill 178, 56th Legis-  
lature, Regular Session,  
requires that the Com-  
missioners' Court of  
Dallas County provide  
for an annual audit of  
the Independent School  
District of the City of  
Dallas.

Dear Mr. Wade:

We quote as follows from your recent letter:

"The question involved with Mr. Lynn in this opinion is whether the independent school district of the City of Dallas should be included in the county audit. Mr. Lynn, the County Auditor, is not fully satisfied from a legal standpoint whether the independent school district of the City of Dallas should be included in the audit. Owing to the fact that the city schools in Dallas operate independently of the Commissioners Court and the County of Dallas officially we are not inclined to believe that the district should be included in the county audit. However, the Auditor desires an opinion from your office on the subject involved in House Bill 178 of the 56th Legislature applicable to annual county audits."

Section 1 of Senate Bill 178, Acts of the 56th Legislature, Regular Session, (Article 1641-d, Vernon's Civil Statutes) provides as follows:

"In every county in the State of Texas having a population of 350,000 inhabitants or more, according to the last preceding Federal Census, an annual independent audit shall be made of all books, records, and accounts of the district, county and precinct officers, agents or employees, including regular auditors of the counties and all governmental units of the county hospitals, farms and other institutions of the county, and all matters pertaining to the fiscal affairs of the county."

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Section 35 of Article III of the Texas Constitution provides:

"No bill, . . . shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof, as shall not be so expressed." (Emphasis ours).

The title of Senate Bill 178 reads in part as follows:

"An Act providing that in all counties having a population of 350,000 inhabitants or more according to the last preceding Federal Census, an annual audit shall be made of all county books, records, and accounts of district, county and precinct officials, agents, or employees including all governmental units of the county, hospitals, farms, and other institutions of the county and all matters pertaining to the fiscal affairs of the county; . . ." (Emphasis ours).

The word "county", as used in the caption, must be treated as referring to "county government". It is a well known rule of statutory construction that the meaning of a word is to be ascertained by reference to the words associated with it. 39 Tex.Jur. 204, Statutes, Sec. 109. The word "county" is used repeatedly and consistently in the act in such a way as to mean the political unit of government rather than the geographical area. If otherwise construed the act would require an audit of every institution, public and private, in the county area. A construction that will make a statute ridiculous or absurd will never be adopted if the language is susceptible of any other meaning. 39 Tex.Jur. 222, Statutes, Sec. 118.

Thus, to the extent that Section 1 of the act relates to "books, records and accounts of the district, county and precinct officers, agents or employees" that are not county books, records and accounts, that is, books, records and accounts of the county government, it, in our opinion, embraces a subject not expressed in the title of the bill, and would therefore, be invalid to such extent by reason of contravening Section 35, Article III of the Texas Constitution. Even if any other language of the act could be construed as making the audit requirement applicable to independent school districts, such requirement would relate only to county books, records and accounts, if any, of such district due to the caption.

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It seems clear to us, however, that the Legislature actually intended for the act to apply only to county government and the various units, institutions and agencies thereof. Aside from the aforesaid effect of the word "county" in the caption in describing the kind of records to which the act applies, the presence of the word in the caption reveals a significant clue to the real intention of the Legislature in enacting the statute.

The reference in Section 1 to "district" officers, agents or employees is in no way inconsistent with this construction inasmuch as certain officers of county government are nominally styled district officers, for example, the District Clerk.

The validity of this construction is confirmed by the language of Section 1 wherein all of the persons and activities expressly enumerated as being included are described as being "of the county".

Further, Sections 3 and 4 of the act are persuasive in this respect since they provide for the employment of the auditor by the County Commissioners' Court and further provide for the auditor to be paid out of the general fund of the county. It is unlikely that the Legislature would give the duty of employing the auditor to the Commissioners' Court if the audit were intended to be directed at other units of government. Moreover, it is especially doubtful that the Legislature would require the expenditure of county funds for the audit of some other unit of government which has its own tax moneys, and which would receive the benefit of such audit.

Therefore, your inquiry resolves itself into a question of whether the books, records, and accounts of an officer, agent or employee of an independent school district are books, records, and accounts of the county government.

Article 1641, Vernon's Civil Statutes, Acts of 1923, providing for appointment of a special auditor by the Commissioners' Court, contains language which in all material respects is identical to that of Section 1 of the subject act. That statute has never been construed by this Department or by any Court as warranting the appointment of a special auditor by the Commissioners' Court to audit the books of an independent school district.

Article 1467, Revised Civil Statutes, Acts of 1905, (codified now in Vernon's Civil Statutes as Article 1651), provides:

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"The auditor shall have a general oversight of all the books and records of all the officers of the county, district or State, who may be authorized or required by law to receive or collect any money, funds, fees or other property for the use of, or belonging to, the county; . . ."

It has been held that this statute gives the County Auditor no supervision over the funds of a common school district of the county. Houston National Exchange Bank v. School District No. 25, Harris County, 185 S.W. 589 (Civ.App. 1916). The Court based its decision on the reasoning that the funds of a school district are not "funds for the use of or belonging to the county". With even greater force the reasoning of that opinion applies to independent school districts since, under the laws of this State, the county has less to do with independent school districts than common school districts.

The County Superintendent has certain limited duties with regard to independent school districts, but it has been held that though, in a sense he is a county officer and called a "County Superintendent", he is in fact the officer and agent of the State and not of the county with respect to school matters. Webb County v. Board of School Trustees of Laredo, 95 Tex. 131, 65 S.W. 878 (1901); 37-B Tex.Jur. 230, Schools, Sec. 77.

Trustees of independent school districts have been held to be county officers only to the extent of coming within the purview of the statutes providing for the removal of county officers and the contest of elections for a county office. 37-B Tex.Jur. 235, Schools, Sec. 83.

The fact is that independent school districts are legal entities which are bodies corporate and politic separate and apart from county government. Wester v. Oge, 68 S.W. 1005 (Civ.App. 1902, error ref.); Royce Independent School District v. Reinhardt, 159 S.W. 1010 (Civ.App. 1913, error ref.). As stated in Texas Jurisprudence:

"An independent school district is managed and controlled by a board of trustees, or city or town council, independent of the county. . . ." 37-B Tex.Jur. 137, Schools, Sec. 17. (Emphasis ours).

In view of the foregoing, it is our opinion that the books, records and accounts of an independent school district

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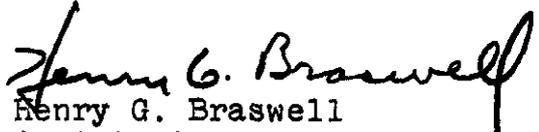
are not books, records and accounts of the county government. You are accordingly advised that the Dallas Independent School District should not be included in the audit provided for by Senate Bill 178, Acts of the 56th Legislature, Regular Session.

S U M M A R Y

Senate Bill 178, Acts of the 56th Legislature, Regular Session (Article 1641-d, Vernon's Civil Statutes) does not require the Commissioners' Court of Dallas County to provide an annual audit of the Dallas Independent School District.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By   
Henry G. Braswell  
Assistant

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APPROVED:

OPINION COMMITTEE  
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REVIEWED FOR THE ATTORNEY GENERAL  
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