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May 7, 2012

The Honorable Jim Jackson
Chair, Committee on Judiciary and Civil
Jurisprudence
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

Opinion No. GA-0922

Re: Whether subsection 52.072(e) of the Election Code applies to all elections, including those governed by section 130.037 of the Education Code (RQ-1006-GA)

Dear Representative Jackson:

You ask whether subsection 52.072(e) of the Election Code applies to all elections, including those governed by section 130.037 of the Education Code.¹

Chapter 52 of the Election Code prescribes the ballot form as well as its content and preparation. Subsection 52.072(e), added by the Eighty-second Legislature, provides as follows:

(e) In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the issuance of bonds or the imposition, increase, or reduction of a tax *shall specifically state*, as applicable:

(1) with respect to a proposition seeking voter approval of the issuance of bonds:

(A) the total principal amount of the bonds to be authorized; and

(B) a general description of the purposes for which the bonds are to be authorized, if approved;

(2) with respect to a proposition that only seeks voter approval of the imposition or increase of a tax, the amount of or maximum tax rate of the tax or tax increase for which approval is sought; or

¹Letter from Honorable Jim Jackson, Chair, House Comm. on Judiciary & Civil Jurisprudence, to Honorable Greg Abbott, Attorney General of Texas (Oct. 19, 2011), <http://www.texasattorneygeneral.gov/opin> (“Request Letter”).

(3) with respect to a proposition that only seeks voter approval of the reduction of a tax, the amount of tax rate reduction or the tax rate for which approval is sought.

TEX. ELEC. CODE ANN. § 52.072(e) (West Supp. 2011) (emphasis added). The word “shall” imposes a duty and thus subsection 52.072(e) is mandatory. TEX. GOV’T CODE ANN. § 311.016 (West 2005) (“‘shall’ imposes a duty”).

Subchapter C, chapter 130 of the Education Code is applicable to certain kinds of junior college districts. *See* TEX. EDUC. CODE ANN. § 130.031 (West 2002) (describing types of junior college districts established by subchapter C of chapter 130). Section 130.037 thereof states:

If the coordinating board approves the establishment of the junior college district, it shall then be the duty of the commissioners court or courts to enter an order for an election to be held in the proposed territory at the next authorized election date as provided in Article 2.01b of the Election Code,² to determine whether or not such junior college district be created and formed and to submit the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created. The order shall contain a description of the metes and bounds of the junior college district to be formed and fix the date of the election.

Id. § 130.037 (footnote added).³

Where the language of a statute is unambiguous and yields only one reasonable interpretation, the courts, and this office, must construe the statute “according to its plain meaning.” *Iliff v. Iliff*, 339 S.W.3d 74, 79 (Tex. 2011). The Election Code is applicable to all general, special, and primary elections held in this state. TEX. ELEC. CODE ANN. § 1.002(a) (West 2010). Moreover, the Election Code supersedes any conflicting statute outside the Code unless the Code or the outside statute *expressly* provides otherwise. *Id.* § 1.002(b). With regard to the language of ballot propositions about voter approval of bonds and the imposition of taxes therefor, we perceive no conflict between subsection 52.072(e) of the Election Code and section 130.037 of the Education Code. If there *were* to be any conflict, however, subsection 52.072(e) would prevail, because neither the Election Code nor section 130.037 provides otherwise.

We conclude that subsection 52.072(e) of the Election Code applies to all elections, including those governed by section 130.037 of the Education Code.


²Article 2.01b of the Election Code was repealed and recodified. *See* TEX. ELEC. CODE ANN. ch. 41 (West 2010 & Supp. 2011).

³Section 41.001 of the Election Code prescribes uniform election dates for each general or special election in this state.” TEX. ELEC. CODE ANN. § 41.001 (West Supp. 2011).

S U M M A R Y

Subsection 52.072(e) of the Election Code applies to all elections, including those governed by section 130.037 of the Education Code.

Very truly yours,


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