



TEXAS EDUCATION AGENCY

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Robert Scott
Commissioner

DEC 08 2008

OPINION COMMITTEE

FILE # ML-45936-08

I.D. # 45936

December 3, 2008

Honorable Gregg Abbot
Attorney General of Texas
Post Office Box 12548
Austin, Texas 78711-2548

RQ-0770-GA

Re: Attorney General Opinion Request

Dear General Abbott:

At the request of a Dallas Independent School District ("DISD") trustee, I am seeking your opinion as to the effect of Section 11.065, Texas Education Code on the ability of a board of trustees to change the length of terms for that body.

As you know, most school districts in Texas are subject to Section 11.059, Texas Education Code, which allows the board of trustees of a school district to serve either a three or four year term. That section was amended by the 2007 Texas Legislature to add subsection (e) and thus authorize boards of trustees to change the length of their existing terms:

- (e) Not later than December 31, 2007, the board of trustees may adopt a resolution changing the length of the terms of its trustees. The resolution must provide for a term of either three or four years and specify the manner in which the transition from the length of the former term to the modified term is made. The transition must begin with the first regular election for trustees that occurs after January 1, 2008, and a trustee who serves on that date shall serve the remainder of that term. This subsection expires January 1, 2013.

We have understood Subsection 11.059 (e) to authorize boards of trustees to change the length of their terms only until December 31, 2007¹.

¹ Subsection 11.065 (e) at least partially overlaps an authorization pursuant to Acts, 80th Leg., Ch 1010, Section 2 that also created a December 31, 2007 deadline. We also understand that some school districts have been required to change the terms of trustees after the December 31, 2007 deadline in order to comply with the joint election

DISD is subject to certain other state statutes that do not apply to all school districts. Specifically, we understand Section 11.065 of the Texas Education Code to apply to DISD:

Sec. 11.065. APPLICABILITY TO CERTAIN DISTRICTS.

(a) Sections 11.052(g) and (h) and Sections 11.059(a) and (b) do not apply to the board of trustees of a school district if:

(1) the district's central administrative office is located in a county with a population of more than two million; and

(2) the district's student enrollment is more than 125,000 and less than 200,000.

(b) Section 11.053 of this code and Section 141.001, Election Code, apply to the board of trustees of a school district described by Subsection (a).

(c) A trustee of a school district described by Subsection (a) may not serve a term that exceeds four years.

(d) Notwithstanding Chapter 171, Acts of the 50th Legislature, Regular Session, 1947 (Article 2783d, Vernon's Texas Civil Statutes), to the extent consistent with this section, the board of trustees of a school district described by Subsection (a) may adopt rules necessary to govern the term, election, and residency requirements of members of the board that may be adopted under general law by any other school district.

Section 11.065 was adopted in 2003 as Senate Bill 688², preceding the 2007 addition of subsection 11.059 (e). As introduced, Senate Bill 688 did not include the phrase "that may be adopted under general law by any other school district" in Subsection (d). That phrase was added by the House Public Education Committee³ and remained unchanged through final adoption.

The opinion requested is whether DISD may, under the provisions of Section 11.065, Texas Education Code, or any other law, change the term served by a member of the board of trustees after December 31, 2007. The opinion request from the DISD board member represents that the DISD board has voted to change the length of its terms from three to four years. The trustees' action has been reported to also postpone elections previously scheduled for May, 2009 to November, 2010.

requirements under section 11.0581, Texas Education Code. For example, a school district holding joint elections with a municipality could be forced to change its election to a different date should the municipality change its own election date.

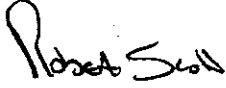
² Acts, 2003, 78th Leg., Ch. 344. Note this act adopted a Section 11.064 of the Education Code, which was renumbered in 2005 as Section 11.065.

³ Committee Report available at

<http://www.capitol.state.tx.us/tlodocs/78R/analysis/doc/SB00688H.doc>.

Thank you for your consideration of this request. Should you need any additional information, please feel free to contact me or David Anderson, General Counsel, at (512) 463-9720.

Sincerely,

A handwritten signature in black ink that reads "Robert Scott". The signature is written in a cursive style with a large initial "R".

Robert Scott
Commissioner of Education

RS/da/ds