

MEMO FROM House of Representatives

TO:

Dr. Hector

FROM:

Hugo

DATE:

May 18, 1977

9:30 a.m.

Attached is a copy of the AG's Opinion which was received in my office this morning.



THE ATTORNET GENERAL

OF TEXAS

Austin, Texas 78711

JOHN L. HILL ATTORNEY GENERAL

May 16, 1977

The Honorable Hugo Berlanga House of Representatives Office #404F State Capitol Building Austin, Texas

Dear Representative Berlanga:

Attached is a copy of the legal opinion on H.B. 1312 (S.B. 847). Although the opinion is a short one, much legal research occurred before the opinion was completed.

The delay in the answering of this opinion request was occasioned by my request to the Opinions Committee for time to examine out-of-state authorities that I believed were opposite to prior Texas attorney general opinions. Other duties prevented me from completing that examination in a timely fashion, further contributing to the delay. However, I did finally complete a review of such cases.

Authorities from other states are supportive of the conclusion reached by the Opinions Committee. The Arkansas courts have addressed the issue directly, holding in Vance v. Johnson, 386 SW2d 240 (Ark. 1965) that the re-enactment of a local law with one minor change was a proscribed local law and was invalid. An earlier opinion was even more direct in holding that amendment of such a law is not possible. See Johnson v. Simpson, 51 SW2d 233 (Ark. 1932).

Thank you for your indulgence in this matter.

Sincerely,

Steve Bickerstaff Assistant Attorney General

Steve Bickerstoff

SB/jh enclosure



THE ATTORNEY GENERAL OF TEXAS

Austin, Texas 78711

JOHN L. HILL
ATTORNEY GENERAL

May 17, 1977

The Honorable Ron Bird
Committee on Regions, Compacts
& Districts
Texas House of Representatives
Austin, Texas

Letter Advisory No. 143

Re: Constitutionality of House Bill 1312.

Dear Mr. Bird:

You have requested our opinion concerning the constitutionality of House Bill 1312 which would amend the special law establishing the Corpus Christi Independent School District by providing for single member districts for trustees. You have also asked if the special law, Chapter 34, Special Laws, Acts of the 31st Leg., Reg. Session 1909, as amended, is the governing law for the Corpus Christi Independent School District. The original Corpus Christi statute was enacted in 1909 when such special laws were permissible under article 7, section 3. That constitutional provision was amended in 1926 to remove the provision permitting special laws relating to school districts.

House Bill 1312 would expressly apply only to the Corpus Christi Independent School District. The Bill would clearly be unconstitutional as a special law regulating the affairs of a school district. Tex. Const. art. 3, § 56; County School Trustees of Orange County v. District Trustees of Prairie View Common School District No. 8, 153 S.W.2d 434 (Tex. 1941); Attorney General Opinions H-641 (1975); H-545 (1975); H-393 (1974); Tex. Att'y Gen. Op. (to Honorable Benjamin Woodall, Jan. 28, 1927), 1926-1928 Tex. Att'y Gen. Bien. Rep. 262.

Your second question is whether the special law involved is the governing law for the Corpus Christi Independent School District. Article 7, section 3 of the Texas Constitution authorizes the Legislature to

provide for the formation of school
districts by general laws. . .and the
Legislature shall be authorized to pass
laws for the assessment and collection

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of taxes in all said districts and for the management and control of the public school or schools of such districts. . . .

Pursuant to this authorization the Legislature has enacted various provisions of general law which govern independent school districts. See e.g., Education Code § 23.01, et seq.; V.T.C.S. art. 2775a, et seq. Where these general provisions are applicable they supersede conflicting provisions contained in special laws. Attorney General Opinion H-469 (1974). Thus, in our opinion the special law creating the Corpus Christi Independent School District is the governing law for such district except as superseded by applicable provisions of subsequent general law.

Wery truly yours

JOHN L. HILL

Attorney General of Texas

APPROVED:

DAVID M. KENDALL, First Assistant

C. ROBERT HEATH, Chairman

Opinion Committee

kml