



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable R. F. Peden  
County Attorney  
Matagorda County  
Bay City, Texas

Dear Sir:

Opinion No. 9-5787  
Re: Terms of office of  
Collegeport Rural High  
School District Trustees  
and related questions.

We received your letter dated July 16, 1941,  
which we quote as follows:

"A Rural High School District which was  
created under a statute which applies to Dis-  
tricts of 100 square miles or less (Art. 2982e)  
actually has 140 square miles. Would the  
validating statutes bring the District within  
the provisions of the statute which applies to  
Rural High Schools of more than 100 square miles  
(Art. 2971a Sec. 4).

"You will find enclosed briefs submitted by  
Mr. C. A. Erickson and by Mr. J. E. Davant of  
Bay City."

From reading the two briefs which you enclosed in  
your letter it appears that you wish to know whether or not  
the trustees of the Collegeport Rural High School District  
shall serve two year terms or three year terms and whether  
all of said trustees shall be elected from the school dis-  
trict at large or whether each elementary district within  
said rural high school district must be the residence of  
at least one of the trustees.

As we understand the facts, the Collegeport Rural

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High School District was formed in the year 1931. Said district was formed as a district including less than one hundred square miles of territory. At the time said district was formed, and at all times since, it seems that said district actually included more than one hundred square miles of territory.

Article 2922c, Vernon's Annotated Civil Statutes, enacted in 1925, reads as follows:

"No rural high school district, as provided for herein, shall contain a greater area than one hundred square miles, or more than seven elementary school districts, except that the county school board of school trustees may form rural high school districts, as provided in Article 2922a, containing more than one hundred square miles, upon a vote of a majority of the qualified electors in the said proposed rural high school district voting at an election called for such purpose; and provided further, that the said board of county school trustees may form a rural high school district containing more than seven elementary districts upon a vote of a majority of the qualified voters in each of the elementary districts within such proposed rural high school district."

Article 2922e, Vernon's Annotated Civil Statutes, enacted in 1925, reads as follows:

"The control and management of the schools of a rural high school district, established under the provisions of this Act, shall be vested in a board of seven trustees, elected by the qualified voters of the said district at large, who shall be elected and serve in accordance with the provisions of General Law relative to common school districts, except as may be otherwise provided herein; and provided that such elementary district included in such rural high school district must be the residence of at least one member of said board. Any vacancy shall be filled for the unexpired term by appointment by the county board of trustees. Provided that for a rural high school district formed with more than one hundred square miles of territory, or containing more than seven elementary districts, as provided in this Act, the board of trustees, as herein provided for,

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shall be elected from the district at large. Should any rural high school district fail to elect a trustee or trustees as provided for in this Act, the county board of trustees shall appoint said trustee or trustees. Four of said trustees shall be elected each odd number of years and three on each even number of years on the first Saturday in April. The trustees of the first board shall draw for terms. In the event a rural high school district is created subsequent to the date for the election of trustees of common school districts, as provided by General Law, it shall be the duty of the county board to appoint a board of trustees for the district, as prescribed herein, to serve until the next date for the election of common school district trustees. In the election of rural high school district trustees, at least one voting box shall be provided in each elementary district composing the high school district.

"The present board of trustees of all elementary school districts which may be included within a rural high school district, as herein provided, shall continue in control of their respective districts until the close of the current scholastic year, but they shall make no contract effecting the expenditure of any school funds subsequent to September 1, 1925, nor shall they have any other authority in the management and control of the schools of the said districts after September 1, 1925. The boards of trustees of rural high school districts shall immediately upon their election and organization proceed to make contracts for the operation of all schools under their control. The first board of trustees herein provided for shall be elected on the first Saturday in April, 1925, and annually thereafter an election shall be held as provided for by law for holding trustee elections in common school districts."

Section 4 of Article 2774a, Vernon's Annotated Civil Statutes, enacted in 1930, reads as follows:

"The control and management of the schools of a rural high school district, established under the provisions of this Act, shall be vested in a board of seven trustees, elected by the qualified

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voters of the said district at large, who shall be elected and serve in accordance with the provisions of general law relative to common school districts except as may be otherwise provided herein; and provided that each of the original districts included in such rural high school district must be the residence of at least one member of said board. Provided, that for a rural high school district formed with more than one hundred square miles of territory, or embracing more than seven districts, the board of trustees, as herein provided for, shall be elected from the district at large. Should any rural high school district fail to elect a trustee or trustees as provided for in this Act, the county board of trustees shall appoint said trustee or trustees. Those elected at the first election shall determine by lot the term for which they are to serve. The three members drawing numbers one, two and three shall serve for one year, the two members drawing numbers four and five shall serve for two years and the two members drawing numbers six and seven shall serve for three years, or until their successors are elected and qualified; and regularly thereafter on the first Saturday in April of each year three trustees or two trustees shall be elected for a term of three years to succeed the trustees whose term shall at that time expire. The members of the board remaining after a vacancy shall fill the same for the unexpired term."

The Collegeport Rural High School District, although actually containing more than one hundred square miles of territory, was not formed upon a vote of a majority of the qualified voters of that district as required by Article 2922e. However this defect in the formation thereof was cured by a validating act passed by the Legislature in 1933 and codified in Vernon's Annotated Civil Statutes as Article 2815g-3. It is our opinion that this validating act validates the Collegeport Rural High School District as a district including more than one hundred square miles of territory.

Since Article 2774a, supra, was enacted some five years subsequent to Article 2922e, supra, it follows that as to any conflicts therein, the provisions of Article 2774a, supra, will control. Further, we wish to point out that Section 4 of Article 2774a, supra, was enacted by the Legislature before the Collegeport Rural High School District was formed.

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It is our opinion that the trustees of the Collegeport Rural High School District should be elected for three year terms in the manner provided in said Article 2774a. In this connection, see Clark v. Wornell et al, 65 S. W. (2d) 350. Based upon the same Article, we conclude that all of the trustees of the Collegeport Rural High School District should be elected from that district at large rather than from the respective elementary districts within said rural high school district.

We trust that we have satisfactorily answered your inquiry.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED AUG 7, 1941

*Leon Cullen*

FIRST ASSISTANT  
ATTORNEY GENERAL

By *Lee Shoptaw*

Lee Shoptaw  
Assistant

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