



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

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Honorable T. M. Trimble
First Assistant
Superintendent of Public Instruction
Austin, Texas

Modified by V-872

Opinion No. 0-3823

Dear Sir:

Re: Does the extension of the boundaries of the city of Texarkana automatically extend the boundaries of the Texarkana Independent School District?

We are in receipt of your letter of July 25, 1941, in which you request the opinion of this department as to whether or not the extension of the boundaries of the city of Texarkana automatically extend the boundaries of the Texarkana Independent School District.

Article 2804 of the Revised Civil Statutes reads as follows:

"Art. 2804. Extending city limits to include district. Whenever the limits of any incorporated city or town constituting an independent school district are so extended or enlarged as to embrace the whole or any part of any independent or common school district adjacent to such incorporated city or town, that portion of such adjacent district so embraced within the corporate limits of such incorporated city or town shall thereafter become a part of the independent school district constituted by such incorporated city or town.

"If within the portion of such district so embraced there should be situated any real property belonging to such district, such city or town may acquire the same upon such terms as may be mutually agreed upon between the governing body of such city or town and the authorities of such district.

"This article shall not apply where it shall be determined at an election held within such city or town by majority vote of those voting thereon that the territory or any portion thereof to be so

embraced shall not thereby become a part of the independent school district constituted by such city or town, but shall be taken into the city limits for municipal purposes only, and shall remain for school purposes a portion of the adjacent independent or common school district as though said city limits had not been extended. . . ."

It is apparent from the above quoted article that is the city of Texarkana is a city constituting an independent school district, then the extension of its boundaries would automatically extend the boundaries of the school district.

The city of Texarkana was first chartered by the Legislature in 1907 by Chapter 104, House Bill 743, Acts of the 30th Legislature. Section 172 of said act granting a charter to the city of Texarkana provides as follows:

"Public Schools - Independent Districts -The City of Texarkana is hereby constituted and shall continue to be a separate and independent school district."

Under the above quoted enactment of city of Texarkana constituted an independent school district. However, in 1920, the Legislature passed Chapter 31, Senate Bill 9, Third Called Session, 36th Legislature. Section 1 of said Article provides as follows:

"Section 1. That there is hereby created the Texarkana Independent School District, which shall include within its limits all lands and territories included within the corporate limits of the city of Texarkana, Texas, the boundaries of said independent school district to be identical with the limits and boundaries of said city and said independent school district is hereby incorporated and made a body corporate in law for free school purposes only, separate and distinct from the corporation of Texarkana, Texas."

Apparently, by the above quoted Article, the school system was divorced from the city of Texarkana and there was created the Texarkana Independent School District. Said school district was made a body corporate in law for free school purposes only, and the Legislature said specifically that it was to be separate and distinct from the corporation of Texarkana, Texas. It is quite apparent, therefore, that after the passage of the above quoted enactment the city of Texarkana no longer constituted an independent school district but rather the Tex-

arkana Independent School District was created as a separate distinct corporate entity apart from the municipal corporation constituting the city of Texarkana. Apparently some question arose because of the fact that the Section 1, supra, of Chapter 31 provided that the boundaries of the Texarkana Independent School District should be the same as the boundaries of the city of Texarkana. The distinction to be known in this case was made by the Supreme Court of Texas in the case of Snyder vs. Baird Independent School District, 111 S. W. 723. The Court stated as follows:

"The distinction between a district incorporated for school purposes only and a town or city which constitutes an independent school district must be kept in view, for upon that distinction depends the proper solution of the question certified. A corporation for school purposes only is not an incorporated city or town as specified in the Constitution, but is simply the incorporation of a school district which may embrace the town or city only or it may embrace a town or city and rural territory. It will be observed that, by careful use of language, the Legislature, in creating the Baird Independent School District, preserved the distinction between the incorporated city of Baird and the incorporated Baird Independent School District. The first section of the act which creates the district declares that an incorporation for free school purposes only is thereby created, to be known, not as the City of Baird, but as 'the Baird Independent School District'. Again, in Section 2 the distinction is definitely drawn. It is said that the city of Baird is divested of the control of its public free schools within its limits, and the control of such schools is vested in the Baird Independent School District. The city of Baird is not an independent school district. Neither is the Baird Independent School District a city." (Underscoring ours).

It is the opinion of this department that Article 2804, supra, has no application to the Texarkana Independent School District and that such Article would not operate so as to extend the boundaries of the Texarkana Independent School District upon the extension of the boundaries of the city of Texarkana.

The question is also raised in this case because of the fact that the Act of 1920 creating the Texarkana Independent School District, supra, provides in Section 1 that the Texarkana Independent School district shall include within its

limits all lands and territories included within the corporate limits of the city of Texarkana, Texas, and the boundaries of said independent school district is to be identical with the limits and boundaries of said city.

The question is whether the intention of the Legislature by the use of the foregoing language was to define the boundaries of the district as of the date of its creation, that is, was this a shorthand method for giving a metes and bounds description, or was it contemplated and intended that the boundaries of the district should in the future follow ipso facto any changes that might be made in the boundaries of the other corporation, the city of Texarkana, so that they would always remain identical. The caption of the original Act merely provides "An Act incorporating the Texarkana Independent School District" in relating to Section 1 of the Act, and the caption nowhere declares a Legislative intention that in the future when the boundaries of the city of Texarkana are extended that the same shall automatically extend the boundaries of the Texarkana Independent School District.

An analogy may be drawn to the Act creating the Houston Independent School District being Chapter 19 of the Special Laws of 1923, page 317, which reads in part as follows:

"An Act creating and incorporating the Houston Independent School District, and defining its boundaries; providing that said act shall automatically extend to all territory which may hereafter be included in the new city limits by an extension thereof, and providing how the territory adjacent to said district may become part of said district; . . .

"Sec. 2. That there is hereby created the Houston Independent School District, which shall include within its limits all lands and territory included within the corporate limits of the City of Houston, and in addition thereto, all lands and territory adjacent to the corporate limits of the said City of Houston, and included within the limits and boundaries of Harris County Common School District Number 25, as defined by an order of the commissioners' court of Harris County, Texas, on September 20, 1915, the boundaries of said independent school district to be identical with the limits and boundaries of said city, and those of said independent school district; and said independent school district is hereby incorporated and made a body corporate in law for free school purposes only, and the name of said corpora-

tion and said independent school district shall be 'Houston Independent School District.'

"Sec. 3. In the event of the extension of the city limits of the municipality of the City of Houston after the passage of this Act, the territory taken into said city by such extension shall automatically become a part of the Houston Independent School District, and subject to the provisions of this Act."

Upon careful consideration, it would seem that had the Legislature intended to do more than define the boundaries of the Texarkana Independent School District at the date of its creation, it would have more specifically so provided as in the case of the Houston Independent School District, and more adequate notice would have been given in the title that not only were the original boundaries being fixed and defined but that provision was also being made for a change in those boundaries after their original establishment.

It is the opinion of this department that the extension of the municipal boundaries of the city of Texarkana did not automatically extend the boundaries of the Texarkana Independent School District and that the boundaries of such school district are subject to the applicable laws relating to bodies corporate for school purposes only.

In your letter you also ask what steps are necessary for those sections which have been annexed to the city of Texarkana to be taken in order for them to become a part of the Texarkana Independent School District. The territory which has been annexed to the city of Texarkana forms a part of the Spring Lake Park Common School District.

We call your attention to Chapter 49, Senate Bill 297, Special Laws of the 39th Legislature, First Called Session, 1926. Said Act reads in part as follows:

"Section 1. That Chapter 31, of the local and Special Laws passed by the Thirty-sixth Legislature, at its Third Called Session, is hereby amended by adding thereto three new sections to be designated as Sections 1-a, 1-b, and 1-c, and which shall read respectively, as follows:

"Section 1-a. Whenever a majority of the inhabitants, qualified to vote for members of the Legislature of any territory adjoining the limits of the Texarkana Independent School District, shall

desire such territory to be added to and become a part of said independent school district, and a majority of such qualified voters sign a petition to that effect, any three of such qualified voters may file with the board of trustees of said independent school district the said petition, making affidavit of the facts set forth in said petition, fully describing by metes and bounds the territory proposed to be annexed, and showing its location with reference to the existing territory of the Texarkana Independent School District; provided, that said territory proposed to be added must be contiguous to one line of said independent school district. And upon filing of said petition, affidavits and descriptions, with the president of the board of trustees, it shall be his duty to submit the same to the board, and, if upon investigation by the board it is found that the proposed addition is necessary and practicable, the said board of trustees, by resolution duly entered upon its minutes, may receive such proposed territory as an addition to, and as becoming a part of the corporate limits of the said Texarkana Independent School District. After the passage and adoption of such resolution, the territory so received shall be a part of the Texarkana Independent School District, and the inhabitants thereof shall thenceforth be entitled to all the rights and privileges as other citizens and inhabitants of the said independent school district. The whole, or any portion of, any contiguous common school district, whether bonded or not, may be annexed to the Texarkana Independent School District in the manner herein prescribed...." (Underscoring ours)

The above quoted statute clearly provides how territory may be annexed to the Texarkana Independent School District. It specifically provides that part of the territory so annexed may be part or whole of a common school district. You are advised that the procedure outlined therein should be followed in annexing the territory which is now part of the city of Texarkana to the Texarkana Independent School District.

Hon. T. M. Trimble, page 7

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Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Billy Goldberg
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APPROVED AUG 7, 1941
s/Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee By s/REK Chairman