



PRICE DANIEL  
ATTORNEY GENERAL

**THE ATTORNEY GENERAL  
OF TEXAS**

AUSTIN 11, TEXAS

August 5, 1948

affirmed by R-2760  
E52

Modified by V-872

Hon. L. A. Woods  
State Superintendent  
Department of Education  
Austin, Texas

Opinion No. V-650

Re: Consolidation of  
Springlake Park Com-  
mon School District  
No. 19, and Texarkana  
Independent School  
District, both in  
Bowie County, and re-  
lated questions.

Dear Sir:

We refer to your recent request from which we  
quote in part:

"The Board of Trustees of Texarkana  
Independent School District in Bowie Coun-  
ty, Texas, desires an official ruling on  
the legal questions herein propounded.

"The facts: The Texarkana Independent  
School District was created by special act  
of the Legislature of the State of Texas by  
Senate Bill No. 9, Third Called Session of  
the 36th Legislature. The Texarkana Inde-  
pendent School District, subsequent to the  
above act of the Legislature, has existed  
and is now in legal existence and discharg-  
ing appropriate functions through its Board  
of Trustees.

"The Texarkana Independent School Dis-  
trict, by appropriate and legal action, has  
added some territory to the area originally  
incorporated in said district.

"During the year 1927 the Board of  
Trustees of the Texarkana Independent School  
District, through legal and appropriate ac-  
tion, established the Texarkana Junior Col-  
lege within the boundaries of the Texarkana  
Independent School District, and at all times

subsequent thereto the Texarkana Independent School District has operated and maintained and there has functioned an accredited and approved junior college within the Texarkana Independent School District, the said college being under the supervision, direction and control of the Board of Trustees of the Texarkana Independent School District.

"The qualified property tax paying voters of the Texarkana Independent School District have voted a special tax for the support and maintenance of the Texarkana Junior College.

"Springlake Park Common School District No. 19 in Bowie County, Texas, adjoins and has a common boundary line with the Texarkana Independent School District for approximately one-half of the boundary line of said Common School District. Said Common School District was created and the boundaries thereof legally fixed by an order of the Commissioners' Court of Bowie County, Texas, during the year 1915, and said District has functioned as a Common School District at all times subsequent thereto.

"Many interested citizens living within Springlake Park Common School District No. 19 in Bowie County, Texas, desire said Common School District to be annexed to and become a part of the Texarkana Independent School District and Texarkana Junior College District and the purpose of this inquiry is to determine how said consolidation may be legally effected and therefore the following questions:

"1. Can the Springlake Park Common School District No. 19 in Bowie County, Texas, be legally consolidated to and with the Texarkana Independent School District and Texarkana Junior College District in the manner provided for in Article 2806. Vernon's Annotated Statutes, Pocket Parts; Acts 1945, 49th Legislature, Page 416, Chapter 264, Section 1?

"2. If the above section of the statutes is held to apply only to the Independent School district as distinguished from the Junior College District, then in such event can the Springlake Park Common School District No. 19 in Bowie County, Texas, be annexed to the Texarkana Junior College District, as provided in Article 2815h, Section 21, Vernon's Annotated Statutes?

"3. In the event either or both of Questions Numbered 1 and 2 are answered in the affirmative, then in such event can all taxes voted by the people in the Texarkana Independent School District, including the Junior College District, be extended over the area of Common School District No. 19?

"4. If Questions 1 or 2 is answered in the affirmative and Question 3 is answered in the negative, then in such event are the voters of Springlake Park Common School District No. 19 required to vote to assume all taxes legally levied for the support of the Texarkana Independent School District and Junior College District before said taxes can be levied upon the property in said common school district.

"5. There has heretofore legally been voted by the voters of the present Texarkana Junior College District bonds for the purchase of a site and erection of a building for the Junior College. Assuming the future legal consolidation of the Texarkana Independent School District and the Texarkana Junior College District, and the Springlake Park Common School District No. 19, will the Trustees of the (Consolidated) Junior College District be authorized to spend such bond funds for the purchase of a site and the erection of a building in the area now within Common School District No. 19, but outside the present boundaries of the Texarkana Independent School District and Texarkana Junior College District?

"In this connection, you are advised that the Trustees of the Texarkana Indepen-

dent School District have control of and supervision of the Texarkana Junior College and bonds have been legally voted and will be sold for the purchase of a site and the erection of a new junior college building. The Trustees of the Texarkana Independent School District and Junior College District, after diligent search, have been unable to find suitable grounds within the boundaries of said Independent School District and College District upon which to erect the junior college building, but many admirable sites are available in Common School District No. 19 (which is adjacent to the Texarkana Independent School District and convenient for students)."

The Texarkana Independent School District is a distinct corporate entity apart from the municipal corporation constituting the city of Texarkana. Chapter 31, S. B. 9, 3rd C. S., 36th Legislature, Acts 1920.

Section 1-a, Chapter 49, S. B. 297, Special Laws, 1st C. S., 39th Leg., Acts 1926, provides a procedure for the annexation of territory to the Texarkana Independent School District. See Opinion 0-3823 attached hereto wherein Section 1-a is copied in part.

However, Section 19 of S. B. 297 vests in the trustees of the Texarkana Independent School District "all the rights, powers and privileges and duties conferred and imposed by the General Laws of this State, now in force, or that may be hereafter enacted, upon the trustees of independent school districts" and provides further that "the boundaries of said district may be extended by the annexation of contiguous territory in the manner authorized and prescribed in this Act."

Article 2806, as amended, is a general law authorizing and setting out the procedure for the consolidation of school districts in this State and is available to independent as well as common school districts. It provides that "Where one or more independent school districts are consolidated together or with one or more common school districts the consolidated district shall constitute an independent school district, and shall have all the rights, powers and privileges granted to independent school districts by the laws of this State." Article 2806 does not provide that when

an independent school district is consolidated with other districts under the procedure therein set out that the new district thereby created shall have all the rights, privileges and powers granted to junior college districts of this State.

Clearly, Springlake District may be annexed to the Texarkana District under the procedure authorized in the Special Act governing the Texarkana district or it may be consolidated with Texarkana District under the provisions of Article 2806, as amended. But under either procedure, the new district with boundaries extended is enlarged only for independent school district purposes. We find no provision in the Special Laws creating the Texarkana Independent School District nor in Article 2806, which provides that whenever the boundaries or limits of an independent school district are so extended that the territory or district so extended within the limits of the independent school district shall thereafter become a part of the junior college district which it controls and operates. Nor do those laws provide the procedure for the enlargement of a junior college district. As evidence of the fact that there may be junior college districts whose boundaries are not necessarily coterminous with the independent school district see Article 2815h, Section 7a, second paragraph, and Section 21.

Section 21 of Article 2815h provides in part:

" . . . A common school district . . . may be annexed to a Junior College District for Junior College purposes only, by an election as provided in Section 2 hereof, when petition of five per cent of the property tax-paying voters in such district . . . seeking to be annexed, provided further that such annexation shall have been previously approved by the Board of Trustees of the Junior College District and provided further that election for such annexation shall be called and the results canvassed and declared by the County Board of Education . . . provided further that the territory included in such annexed district shall thereby assume its share of any outstanding bonded indebtedness of the Junior College District, in proportion to the assessed valuation with the said district, and also shall become liable for taxes for maintaining the Junior College."

Accordingly, the Texarkana Independent School District, acting under Section 1-a of S. B. 297, supra, may annex Springlake Park Common School District for independent school district purposes, or it may consolidate with said district acting under Article 2806, as amended, for independent school district purposes. In addition thereto, or deciding not to take in Springlake District for independent school district purposes, it may, acting under Section 21 of Article 2815h, annex Springlake Park district for junior college purposes only.

Section 1-b of Senate Bill 297, supra, authorizes the Board of Trustees of Texarkana Independent School District, whenever any territory is annexed thereto, to order an election for the purpose of determining whether taxes for the support and maintenance of its public free schools and also for the purpose of redeeming or paying the bonded debts of the Texarkana Independent School District shall be levied and collected annually on all taxable property within the limits and boundaries of said district as extended by reason of the annexation of any such territory.

The Attorney General has previously advised in Opinion No. V-375 that a newly consolidated school district created under procedure of Article 2806 has no authority to levy a local maintenance tax until such has been voted by the newly created district. See also Section 4 of Article 2784e, as amended, and Section 3, of Article VII, Constitution of Texas, which requires a majority of the qualified property taxpaying voters of a district voting at an election held for the purpose of voting a maintenance tax before the same may be levied and collected within all school districts heretofore formed or hereafter formed.

It follows that in the event the Springlake district is taken into the Texarkana district under Section 1-a, S. B. 297, supra, or under Article 2806, or under the procedure set out in Section 21 of Article 2815h, no authority would lie in the Texarkana Board of Trustees to levy and collect a maintenance tax from the enlarged district for any purpose until the same had been authorized by vote of the property taxpaying voters of the district as enlarged or extended at the time of the proposed consolidation or annexation for independent school district purposes. If there are outstanding bonds of either district, than at an election there may be submitted to the qualified taxpaying voters of such

new district the question as to whether the said new district as enlarged or extended shall assume and pay off said outstanding bonds and whether a tax shall be levied therefor. Section 1a and 1-b, S. B. 249, supra; Article 2807, Article 2786b; A.G. Opinion No. 0-4511. Until such obligations are assumed by proper proceedings, they remain the obligations of the territory in the respective districts. Opinion V-375.

In the event the Springlake Park district is annexed to the Texarkana District for junior college purposes under Section 21 of Article 2815b, a proviso therein requires that the territory included in such annexed district shall thereby assume its share of outstanding bonded indebtedness of the junior college district, in proportion to the assessed valuation within the said district, and shall also become liable for taxes for maintaining the junior college. We interpret this to mean that unless the territory desiring to be annexed to the junior college district for junior college purposes at the election to be held under Section 2 of Article 2815h votes to assume its proportionate part of said outstanding bonded debt of the junior college district and to become liable for taxes for maintaining the junior college, the same will not become a part of the junior college district.

Our answer to your fourth question being to the effect that the qualified taxpaying voters of Springlake Park district are required to vote before a tax may be levied and collected on the taxable property within its territory for the Texarkana Independent School District and Junior College District purposes, it follows that the answer to your third question is in the negative.

We have underscored herein the words "outstanding bonded indebtedness" found in Section 21, Article 2815h, "bonded debts" in sections 1-a and 1-b of S. B. 249, supra, and "outstanding bonds" appearing in Article 2807. Any bonds voted but which have not been issued and sold do not constitute bonded indebtedness.

Under the facts herein submitted we are advised that bonds and tax payments have been legally voted by the Texarkana Junior College District for the purchase of a site and the erection of a new junior college building. The bond record previously approved by this office indicates that the bond election was authorized

and held in accordance with Article 2815h-3b.

Section 1 of Article 2815h-3b provides, in part:

" . . . the governing Boards of all public Junior Colleges organized, created and established under the laws of Texas, in any manner, shall have power to issue bonds for the construction and equipment of school buildings and the acquisition of sites therefor, and to provide for the interest and sinking fund for such bonds by levying of such taxes as will be necessary in this connection, subject to the limitations hereafter imposed. Such governing boards shall also have power to levy and collect taxes for the support and maintenance of such Junior Colleges, provided that no bonds shall be issued and no taxes collected until authorized by vote of the majority of the qualified voters of the Junior College District in which such Junior College is located . . .  
(Emphasis added).

This office, in Opinion O-4573, has previously and properly advised that by virtue of the provisions of Section 6 of Article 2815h, a junior college Board is without authority to purchase a site for a junior college building outside the junior college district. We think Section 1 of Article 2815h-3b is additional authority for such opinion.

Furthermore, at the time of the junior college bond election, Springlake Park district constituted no part of the Texarkana Junior College District, nor does it at this date. Thus the bonds and tax in question were authorized by vote of the majority of qualified voters of the Texarkana Junior College District as it then existed. It must be presumed the voters intended and believed they were voting for the purchase of a site and the election of a junior college building in the junior college district as it then existed, for there was no authority in the Board to build it elsewhere. It is elementary that bonds may be issued, sold and used only for the purpose for which they were authorized. *Fletcher v. Howard*, 39 S.W. (2d) 32. The bonds in question were authorized to be issued, sold and used for the purchase of a site and



construction of a junior college building in the Texarkana Junior College District as it existed at the time the election was held authorizing same. To hold otherwise would not only do violence to Section 6 of Article 2815h and Section 1 of Article 2815h-3b, but also thwart the will of the qualified voters of Texarkana Junior College District as exercised in the junior college bond election held in accordance with Article 2815h-3b.

SUMMARY

The Texarkana Independent School District, acting under Section 1-a of S. B. 297, Special Laws, 1st C.S., 36th Legislature, Acts 1920, may annex Springlake Park Common School District, or it may consolidate with said district under Article 2806, V. C. S. for independent school district purposes. In addition, it may annex the district for junior college purposes in accordance with Section 21 of Article 2815h, V. C. S.

In the event the Texarkana District takes the contiguous district under either of the said statutory procedures, it would be without authority to levy and collect taxes for the annexed district until same had been authorized by an election participated in by the qualified voters of the newly embraced territory. Art. VII, Sec. 3, Const. of Tex.; A.G. Opinion V-375.

Fund collected from the sale of bonds authorized by the qualified voters of Texarkana Junior College District by an election held in accordance with Article 2815h-3b, V.C.S., may not be used for the purchase of a site and the erection of a junior college outside the limits or boundaries of the junior college district as they exist at the time of the junior college bond election. Art. 2815h-3b, Sec. 1; Art. 2815h, Sec. 6, V.C.S.; A.G. Opin. 0-4573.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

APPROVED:

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