



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

March 30, 1939

Honorable T. M. Trimble
First Assistant State Superintendent
Department of Education
Austin, Texas

Dear Sir:

Opinion No. 0-568

Re: Printing names on ballots
for independent school
trustee election with less
than 500 scholastics.

We are in receipt of your letter of March 30, 1939, in
which you make the following request:

"Your ruling on the following problem will be appre-
ciated:

"For the past ten years County Judges have asked
the County Superintendent to secure election supplies,
see to the printing of ballots and delivering same to
the school districts of less than five hundred scholas-
tics. This became a well established custom. This year
two opposing sides filed petitions with me instead of
with the County Judge asking that the names be placed
on the official ballot. I printed the ballots and de-
livered same to the election judge. This is being
questioned as an illegal procedure and Article 2746a is
cited. The County Judge was furnished with a set of
election supplies with the unprinted ballots and
instructed to deliver same to be used in lieu of the
set I delivered."

We understand that this is a portion of a request made
by a county superintendent and the first person pronouns refer
to the county superintendent.

Article 2746a, Revised Civil Statutes, 1925, as amended,
provides in part as follows:

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"All of the ballots for the election of a school trustee in common school districts and in independent school districts having fewer than five hundred (500) scholastics as shown by the last preceding scholastic census roll approved by the State Department of Education and exclusive of transfers shall be printed with black ink on clear white paper, of sufficient thickness to prevent the marks thereon being seen through the paper, and be of uniform style and dimension; at the top of the ballot there shall be printed "Official Ballot, _____ Independent School District", the number or name of the school district in which the election is to be held to be filled in by the judge of the county when he orders the ballots printed. Any person desiring to have his name placed on said official ballot, as a candidate for the office of trustee of a common school district or of an independent school district as herein provided shall, at least ten days before said election, file a written request with the county judge of the county in which said district is located, requesting that his name be placed on the official ballot, and no candidate shall have his name printed on said ballot unless he has complied with the provisions of this Act; provided that five or more resident qualified voters in the district may request that certain names be printed. The county judge, upon receipt of such written request, and at least five days before the election, shall have the ballots printed as provided in this Act, placing on the ballot the name of each candidate who has complied with the terms of this Act, and deliver a sufficient number of printed ballots and amount of supplies necessary for such election to the presiding officer of the election at least one day before said election is to be held, said election supplies, ballots, boxes, and tally sheets to be delivered by the county judge by mail or in any other manner by him deemed best, to the presiding officer of said election in sealed envelopes which shall not be opened by the election officer until the day of the election."

We call attention to the provisions of this Article, and especially to that part which provides that "no candidate shall have his name printed on said ballot unless he has complied with the provisions of this Act."

Statutory provisions as to the preparation of ballots and as to the printed names to appear thereon are mandatory and must be strictly followed. Dunagan v. Jones, 76 S. W. (2) 219.

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It is also a general rule of statutory construction that a provision limiting a thing to be done in a particular manner implies that it shall not be done otherwise. 39 Tex. Jur. 189.

That part of the act which provides "that five or more resident qualified voters in the district may request that certain names be printed" obviously means that such request shall be filed with the same officer authorized to accept the request of an individual candidate and within the same period of time.

A reading of the statute as a whole makes it clear that names shall not be printed on the ballot unless the procedure prescribed is followed. Local custom cannot repeal the mandatory provision of an Act of the Legislature.

We are of the opinion that names of candidates for school trustees in common school districts and independent school districts, having a scholastic population of less than five hundred, should not be printed on the official ballot unless written request has been made to the county judge as provided by Article 2748a.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Cecil C. Cannon
Cecil C. Cannon
Assistant

CCC:N

APPROVED

[Signature]
FIRST ASSISTANT ATTORNEY GENERAL