



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable A. M. Fribble  
County Attorney  
Hills County  
Goldthwaite, Texas

Dear Sir:

Opinion No. O-1241

Re: The time that should elapse before another election after an election has been held under the terms of Article 2742f to determine whether a portion of the territory of a school district should be detached and attached to another school district and such election has failed.

We have your letter of August 5, 1939, in which you request our opinion upon the following question:

"Wherein an election has been held under terms of Art. 2742f R.C.S. to determine whether a portion of the territory of a school district shall be detached and attached to another school district, and such election has failed, what time should elapse before another election on the same proposition can be called?"

Article 2742f of the Revised Civil Statutes as amended by Chapter 339, Section 2, Acts, 44th Legislature (1935) provides for the procedure that shall be followed in detaching territory from one school district and attaching it to another school district. This statute provides in part as follows:

"That each and all of said elections shall be held in accordance with the provisions of the General Law governing bonded tax elections in a common or independent school district as the case may be."

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Article 2785 of the Revised Civil Statutes as amended by Chapter 476, Section 1, Acts, 44th Legislature, Second Called Session (1935), relates to elections to determine the proposition of the levy of taxes or the issuance of bonds by school districts. This statute provides in part as follows:

"If said maintenance tax proposition is defeated at an election held for such purpose, no other election shall be held therefor within one year from the date of said election."

It is our opinion that the portion of Article 2742f, which is quoted above, refers to the provisions of Article 2785, and that where an election has been held under the terms of Article 2742f, Revised Civil Statutes, to determine whether a portion of the territory of a school district shall be detached and attached to another school district, and such election has failed, one year should elapse before another election on the same proposition can be held. However, under the decision of the Commission of Appeals in *Martin v. Grandview Independent School District*, 267 S. W. 461, a second election on the same proposition, which was held more than a year after the first election defeating the proposition, would not be rendered void by the fact that the order for the election was made within less than a year after the first election. In his opinion, which was adopted by the Supreme Court, Judge German says:

"It is the actual holding of the election, and not the mere ordering of it, which is calculated to inconvenience or disturb the voters. It was the holding of a second election within a less time than one year of the first election which the legislature no doubt intended to prevent."

We are therefore of the opinion that under the facts stated in your question, the second election should not be held within one year after the first election, but that the order for the second election may be made within a year after the first election without rendering the second election void.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*James P. Hart*

James P. Hart  
ASSISTANT

APPROVED AUG 31, 1939

*Gereads. Maney*

ATTORNEY GENERAL OF TEXAS

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