OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable L. A. Woods
State Superintendent of Public Instruction
Austin, Texas

Dear Sir:

Opinion No. O-1574

Re: Authority of Board of Trustees of one county to form county line rural high school district.

We are in receipt of your letter of May 8, 1940, in which you request the opinion of this department, as to whether the County Board of School Trustees of one county, which has been given jurisdiction for administrative purposes over certain county line districts, may group or annex such school districts to form a county line rural high school district containing more than 100 square miles, under the provisions of Article 2922c, without the consent of the county school trustees of each of the counties having territory in such county line school district.

Article 2922a, Revised Civil Statutes, 1925, authorizes the County Board of School Trustees to group or annex school districts under certain conditions to form rural high school districts.

Article 2922c, Revised Civil Statutes, 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 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 purposes; and provided further, that the said

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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 2922d, Revised Civil Statutes, 1925, provides:

"The county board of trustees of two or more adjoining counties shall have the authority, upon the written order of a majority of the members of each county board concerned, to establish a county line rural high school district, and to designate the county which shall have supervision of said county line rural high school district. Said county line rural high school district shall be governed as other rural high school districts herein provided for." (Underscoring ours.)

In County School Trustees of Lubbock County vs. Harral County Line Independent School District (T. C. A. 1936), 95 S.W. (2d) 204, Article 2922d was applied by the court in a situation similar to that presented in your letter. In that case, the County School Trustees of Lubbock County had been given supervision and control of the Harral County Line School District which lay in Hale and Lubbock Counties. The Lubbock County School Trustees called an election and attempted to group this county line school district with another district to form a rural high school district containing more than 100 square miles, without first having secured the consent of the County School Trustees of Hale County. The court held that the Lubbock County Board acted beyond its authority, and in so holding, stated:

"Here the inhibition against the annexation of the territory of one county to that of another for the purpose of creating a rural high school district, without its consent given in the manner provided in said Article 2922d, is, under the above rule, plainly prohibited....Much emphasis is placed by appellants upon the right of Lubbock County Trustees to take the action aforesaid because Hale County had theretofore surrendered to Lubbock all supervision of the school situated in the territory embraced in the Harral County Line District, and which included a part of Hale County, and same had been exercised continuously since about 1916. The

Legislature must have known, when it enacted said Article 2922d, that there was probably then, or would thereafter be, numerous county line school districts, both common and independent. Naturally each of these would have to be supervised from one county to avoid confusion. If the mere right of supervision gave the legal right of annexation to form rural high school districts, why enact said Article 2922d, in its present broad language, for in every case where a common or independent district had been formed, such right of supervision in one or the other of the two or more counties would be present? Undoubtedly, the legislative intent was to prohibit any such annexation of territory upon the present facts, for the situation here is to our minds plainly what could have been foreseen as existing in many cases when Article 2922d was cast into its present verbage. The language is specific and admits of no doubt. The present situation is not made an exception, as it should have been, and could easily have been, if such had been intended."

It is our opinion that the County Board of School Trustees of the county having administrative control of a county line school district is without authority to conduct an election and group or annex such district to another school district to form a rural high school district, without the consent of each county board of school trustees, as provided in Article 2922d, Revised Civil Statutes, 1925.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By Cecil C. Cammack
Cecil C. Cammack
Assistant

CCC/oe

APPROVED JUN 11, 1940

Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED
OPINION
COMMITTEE
BY BWB
CHAIRMAN