



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Henry M. Wade  
County Attorney  
Rockwall County  
Rockwall, Texas

Dear Sir:

Opinion No. 0-1652

Re: May the qualified voters of an independent school district reduce the maintenance tax from fifty-five (55) cents to five (5) cents on a One Hundred (\$100.00) Dollar valuation?

We received your letter of November 3, 1939, in which you request our opinion as to whether or not the qualified voters of the Rockwall Independent School District, which has previously voted a fifty-five (55) cents maintenance tax on the One Hundred (\$100.00) Dollar valuation, can now reduce the maintenance tax to a five (5) cents tax on a One Hundred (\$100.00) Dollar valuation.

Article 2790, Revised Civil Statutes of Texas, reads as follows:

"If an independent school district votes a maintenance tax, the board of trustees shall thereafter annually levy and cause to be assessed and collected upon the taxable property in the limits of the district for the maintenance of the public free schools of the said district such ad valorem tax as the qualified voters of such district authorized at the election held for that purpose; or if no specific rate has been voted, said board shall levy such a rate each year within that limit as it may deem judicious. Where a maintenance tax has been voted, no election to revoke, modify or increase the

same shall be held until two years from the date of the election authorizing such maintenance tax. An election to revoke, modify or increase such maintenance tax, when permissible, may be obtained and held substantially as herein provided for an election to authorize such tax; provided, however, that no change or modification in such maintenance tax shall ever affect any bond tax authorized by such district."

The right of the qualified voters of an independent school district to revoke, modify or increase the school maintenance tax has been repeatedly recognized by our State courts. In Yorktown Independent School District v. Asslerbach, et al, Commission of Appeals, 12 S. W. (2d) 130, the court said:

"The method provided by law for authorizing taxes for maintenance of public free schools and the like is by a reference to the qualified property taxpaying voters of the district without which any attempt to levy such taxes would be futile."

We, therefore, answer your question in the affirmative.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By (Signed) Glenn R. Lewis  
Glenn R. Lewis  
Assistant

HM:RS

APPROVED: NOV. 14, 1939

(Signed) W. F. Moore  
FIRST ASSISTANT  
ATTORNEY GENERAL

By (Signed) Hirschie Johnson  
Hirschie Johnson

APPROVED: OPINION COMMITTEE  
By B. W. B., Chairman