



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable T. M. Trimble, First Assistant
State Superintendent of Public Instruction
Austin 11, Texas

Dear Sir:

Opinion No. 0-6190

Re: May a common school district which has less than 150 scholastics be incorporated by the County Board of Trustees, and have the authority to conduct its business as an independent school district?

And related matters.

We are in receipt of your letter of recent date, reading as follows :

"At the request of Honorable Dave Shanks, Ex Officio County Superintendent of Ochiltree County, I am submitting the following question for your consideration and opinion:

"May a common school district which has less than 150 scholastics be incorporated by the County Board of Trustees, and have the authority to conduct its business as an independent school district? May such a district have its own assessor and collector of taxes, and may the valuations of such a district be increased above those for State and County purposes?"

Replying to the above, you are advised that Article 2742j, Section 1, Vernon's Texas Civil Statutes, provides as follows:

"Whenever a majority of the legally qualified property tax paying voters, together with a majority

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of the trustees residing in a common school district, petition the county board of trustees to incorporate the said common school district into an independent school district for school purposes only and furnish the said county board of trustees with sufficient evidence that the said district, when so incorporated, will be financially able to carry on high school work at a reasonable cost per capita, the county board of trustees may pass an order incorporating the said district and shall appoint a board of trustees of seven members to serve until the next regular election of school district trustees, as prescribed by general law. At the next regular election of school trustees, the said incorporated district shall elect a board of seven trustees, as prescribed by general law, who shall serve for such term as is now provided by the general school law or as may be hereafter provided. An independent school district incorporated under the provisions of this Act shall have all the rights and privileges of independent school districts incorporated by general law."

It will be observed that no mention is made in the above article of the number of scholastics in the common school district and we therefore think that it is applicable to any common school district which can furnish the county board of trustees with sufficient evidence that "the said district, when so incorporated, will be financially able to carry on high school work at a reasonable cost per capita."

Said Article 2742j also provides that "an independent school district incorporated under the provisions of this Act shall have all the rights and privileges of independent school districts incorporated by general law." One of the rights possessed by such independent school districts is the right to have its own assessor and collector of taxes, and when such assessor and collector of taxes is a person other than the county assessor and collector, the valuation of property may be greater than the valuation for State and county purposes. (Avery vs. Cooper, 107 Texas 483, 180 S.W. 734).

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

C. F. Gibson

C. F. Gibson
Assistant

