



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

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

Dear Sir:

Opinion No. O-6454

Re: Which law should be followed
in governing the action of a
Board of Aldermen or a City
Council in appointing their
school trustees?

We are in receipt of your letter of May 2, 1945,
reading as follows:

"Article 2774a, an Act of 1905, provides that the city council or board of aldermen shall appoint trustees to serve for two-year terms. The Forty-first Legislature, in 1930, enacted what is now known as Article 2774a, which became a law and which provides in Section 1 that boards of trustees of municipally controlled school districts are appointed by the board of aldermen for a term of three years.

"We would like to know which law should govern the action of a board of aldermen or a city council in appointing their school trustees?

"The above question has been raised in regard to the appointment of trustees for the Gatesville Independent School District, which is a district that came into existence when the city assumed control of its schools on August 13, 1889.

"Your usual prompt attention to this opinion request will be greatly appreciated."

Honorable T. M. Triable, page 2

The pertinent part of Article 2774a is Section 1, which provides as follows:

"Towns and cities which have heretofore chosen their trustees by appointment of the city council or board of aldermen, shall be authorized to continue to choose their trustees in this manner; that is, by the appointment by the board of aldermen of said city or town; provided, that seven trustees shall be appointed, three of whom shall serve for one year, and two for two years and two for three years, and each year thereafter, three trustees or two trustees shall be appointed for a term of three years; and further provided, that on a petition of twenty-five per cent of the voters of any such city or town, to be ascertained by the ballots cast at the regular city election in said city or town, the mayor of such city or town shall order an election to determine whether or not the school affairs of such city or town shall be directed by a school board elected in accordance with the provisions of this chapter; and, in case of any affirmative vote, an election shall at once be ordered by the said mayor, for the purpose of choosing a school board consisting of seven trustees, as provided in the succeeding article."

Section 7, Chapter 66, Acts of the Fifth Called Session, 41st Legislature, which is the repealing clause of Article 2774a, provides as follows:

"All laws and parts of laws, both general and special, in conflict with the provisions of this Act are hereby repealed."

This opinion is based upon the assumption that the City of Gatesville is not a home rule city and is not operated under a special charter. We assume that it is operated under the general laws.

Honorable T. M. Trimble, page 3

Considering the statutes above quoted, you are advised that the Act of 1905 was repealed by Chapter 66, quoted, in part, above, and that the Board of Aldermen or City Council should operate under Article 2774a as it now appears in Vernon's Annotated Civil Statutes, said article providing for a three year term for school trustees.

Yours very truly

ATTORNEY GENERAL OF TEXAS

BY

R. J. Long
B. J. Long
Assistant

APPROVED MAY 19 1945

Wm. Sellers
ATTORNEY GENERAL OF TEXAS

RJL:EP

