



**THE ATTORNEY GENERAL  
OF TEXAS**

**GROVER SELLERS**  
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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable T.M. Trimble  
First Ass't State Superintendent  
Department of Education  
Austin, Texas

Opinion No. 0-7042

Re: Under the provisions of Senate Bill 167, Sec. 2, Acts 1945, 49th Legislature, Regular Session, would a common school district be eligible for aid if the valuation of the property located therein for the school year 1945-46 was set at a figure less than that of the previous year?

Your letter of recent date requesting an opinion on the above subject has been received and given careful consideration. We are quoting below the body of the letter you received from Mr. H.C. Hinton, as well as the second paragraph of your letter.

"Article 1, Section 2, Paragraph 2 of the Equalization Aid Law reads, 'no. school district will be eligible for aid under the provisions of this Act . . . . which has reduced its tax valuation in order to show budgetary need.'

"Budgetary need is defined in Article 1, Section 5, Paragraph 1, as 'the difference between the total of all revenues of the district and the total of all operating expense if such expenses are greater than the revenues.'

"Please ask the Attorney General to give us an opinion on the following question.

"Would a school district that shows budgetary need using 1944-45 assessed valuation be ineligible for aid if the valuation of the district for the school year 1945-46 is less than that of the previous year?"

The second paragraph of your letter is as follows:

". . . . .

"This question is brought about because the Commissioners' Court of El Paso County requested the County Assessor to lower county valuations in view of the fact that it was not necessary to maintain last year's valua-

tions in order to secure enough county taxes to operate the county government. When the county valuations were reduced, of course, the valuations for school purposes in common School districts were likewise reduced.

" . . . . "

Section 2 of Senate Bill No. 167, as passed by the 49th Legislature, Regular Session, 1945, reads in part as follows:

"Sec. 2. Tax levy. No school district shall be eligible to receive any type of aid authorized under the provisions of this Act unless it shall be providing for the annual support of its schools by voting, levying, and collecting for the current school year a local maintenance school tax of not less than Fifty Cents (50¢) on the One Hundred Dollars (\$100.00) of property valuation in the entire district. The property valuations shall not be less than said property is valued for state and county purposes. The income from such a maintenance tax in excess of the required Fifty Cents (50¢) maintenance tax must first be used to retire indebtedness, if any, in the local and Equalization (Rural Aid) schoolfunds. After the indebtedness in these funds, if any, has been retired the income from this maintenance tax in excess of the required Fifty Cents (50¢) maintenance tax may be used at the discretion of the local school authorities of the district for any lawful school purpose except increasing or supplementing any teacher's or administrative salaries. Any or all maintenancetax above Fifty Cents (50¢) may not be included in the calculation of need for aid, but shall be reported in the budget with an itemized statement of its expenditure. If the income from the maintenance tax above Fifty Cents (50¢) is not spent asprescribed herein, it shall be included as receipts in the budget. In order to comply with the terms of this section, it shall be necessary for such school districts applying for any type of aid authorized under the terms of this Act, to report all valuations within such districts, including all consolidated districts and annexed districts, and failure to report all such valuations shall prevent such district from receiving any type of aid authorized under this Act.

"No school district will be eligible for aid under the provisions of this Act which has reduced its tax rate within the two years immediately preceding the year for which aid is applied for hereunder or which has reduced its tax valuation in order to show budgetary need."

Article 2795, Vernon's Annotated Civil Statutes, reads as follows:

"The Commissioners court, at the time of levying taxes for county purposes, shall also levy upon all taxable property within any common school district the

rate of tax so voted if a specific rate has been voted; otherwise said court shall levy such a rate within the limit so voted as has been determined by the board of trustees of said district and the county superintendent and certified to said court by the county superintendent. If such tax has been voted after the levy of county taxes, it shall be levied at any meeting of said court prior to the delivery of the assessment rolls by the assessor. The tax assessor shall assess said tax as other taxes are assessed and make an abstract showing the amount of special taxes assessed against each school district in his county and furnish the same to the county superintendent on or before the first day of September of the year for which such taxes are assessed. The taxes levied upon the real property in said districts shall be a lien thereon and the same shall be sold for unpaid taxes in the manner and at the time of sales for State and county taxes. The tax collector shall collect said taxes as other taxes are collected. The tax assessor shall receive a commission of one-half of one per cent for assessing such tax and the tax collector a commission of one-half of one per cent for collecting the same. The tax collector shall pay all such taxes to the county treasurer, and said treasurer shall credit each school district with the amount belonging to it, and pay out the same in accordance with law. Acts 1921, p. 56."

We find no statutory authority which would permit a common school district to place a different value on its property, that is, property located within its area from that which would be placed on it by the county tax assessor or the Commissioners' Court for State and county tax purposes. Therefore, when the county commissioners elected to lower the valuation of property in the county for county tax purposes there was an automatic reduction of the value for school purposes. The common school district or the common school district trustees had no voice in the matter whatsoever and we cannot say that they "reduced the tax valuation in order to show budgetary needs."

It is our opinion, therefore, that a common school district that shows a budgetary need, using either the 1944-45 or the 1945-46 assessed valuation under the fact situation you presented would be entitled to aid under the provisions of Senate Bill No. 167, provided, of course, it meets the requisites of other provisions in the bill.

Trusting the above satisfactorily answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/E.M. DeGeurin  
E.M. DeGeurin  
Assistant

APPROVED FEB 20, 1946  
s/ Carlos C. Ashley  
FIRST ASSISTANT  
ATTORNEY GENERAL

Approved Opinion Committee By s/BWB Chairman