



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**PRICE DANIEL
ATTORNEY GENERAL**

December 22, 1952

**Hon. Harrison Hall
County Attorney
Newton County
Newton, Texas**

Opinion No. V-1559

**Re: Authority of Kirbyville
Consolidated Independent
School District to require
that school taxes not be
collected by the Tax Asses-
sor-Collector of Newton
County, although the Tax
Assessor-Collector prepared
assessments and rolls prior
to this notice.**

Dear Mr. Hall:

You request the opinion of this office upon the following question: May the Board of Trustees of a consolidated independent school district composed of territory in two adjoining counties collect its taxes through a tax collector appointed by the Board of Trustees of the district notwithstanding the taxes may have theretofore been assessed by the assessor-collector of one of the counties?

Your question arises from the following facts:

"On March 29, A.D. 1952, Kirbyville Ind. S. Dist. No. 905 of Jasper County, and Call County Line Ind. S. Dist., involving parts of both Jasper and Newton Counties, Jasper County having control of said County Line Dist., and on the above date these two S. Dists. were consolidated by election, forming what is now known as the Kirbyville Consolidated Ind. Dist.

"In the years past, the Newton County Tax Collector-Assessor, by agreement, has been collecting the taxes for the said County Line School Dist. and turning same over to the school, according to the Assessments and rolls made up by the Assessor-Collector of Newton County.

"The assessment and rolls were made out for this year by the Assessor-Collector of Newton County. Thereafter, on the 29th of Sept., of this year, the Assessor-Collector of Newton County, was notified by the newly formed school dist. not to collect said taxes."

We do not find it necessary to review the steps leading up to the formation of the Kirbyville Consolidated Independent School District as it presently exists. We assume that its formation and its existence is in all respects legal. This being true, it possesses all the power and authority in the matter of the assessment and collection of its taxes conferred by the Legislature upon independent school districts in general, and this without regard to the prior procedure outlined in your letter as to the Call County Line Independent School District which is now consolidated with the Kirbyville Consolidated Independent School District.

The Kirbyville Consolidated Independent School District, through its Board of Trustees, possesses the power to elect to collect its taxes through its own tax collector. That it is composed of territory in two adjoining counties does not have the effect of separating, diminishing, or dividing the power which the Board of Trustees has over the administration of the affairs of the district, including the power of assessing and collecting its taxes. The power of the Board of Trustees is coextensive over all the territory of the district.

Since the question you present is confined to the authority of a collector of an independent school district to collect the taxes of the district, we do not find it necessary to decide the question of the correlative power of the County Assessor-Collector to collect the taxes of the school district under certain conditions provided by statute nor do we pass upon the validity of the assessment. It is sufficient to say that if statutory authority be found for the independent school district through its Board of Trustees to collect its own taxes and proceeds under such statutory authority to appoint such collector, his authority may not be questioned. Is there such statutory authority? We think there is. Articles 2791-2792, V.C.S., provide in part as follows:

"Art. 2791. . . . There is hereby created the office of assessor and collector of each independent school district, whether created by special or general law, who shall be appointed by the Board of Trustees thereof, and shall have the same power and shall perform the same duties with reference to the assessment and collection of taxes for free school purposes that are conferred by law upon the assessor and collector of taxes in and for any incorporated city, town or village, or upon the person or officer legally performing the duties of such assessor and collector, and he shall receive such compensation for his services as the Board of Trustees may allow, except in cities and towns provided for, not to exceed four (4) per cent of the whole amount of taxes received by him. He shall give bond in double the estimated amount of taxes coming annually into his hands, payable and to be approved by the president of the Board, conditioned for the faithful discharge of his duties, and that he will pay over to the treasurer of the Board all funds coming into his hands by virtue of his office as such assessor and collector; . . ."

"Art. 2792. . . . When a majority of the Board of Trustees of an independent district prefer to have the taxes of their district assessed and collected by the county assessor and collector, or by the city assessor and collector, of an incorporated city or town in the limits of which the school district, or a part thereof is located, or collected only by the county or city tax collector, same may be assessed and collected, or collected only, as the case may be, by said county or city officers, as may be determined by the Board of Trustees of said independent school district, and turned over to the treasurer of the independent school district for which such taxes have been collected. . . ."

This department has heretofore, in Opinion O-1407 (1939), ruled as follows:

"There can be no question but that an independent school district which has property in two different counties could employ one collector to collect its taxes in both of said counties."

We do not think that the fact that the taxes have heretofore been assessed upon a roll prepared by the County Assessor-Collector of one or both of the assessor-collectors of the two counties in which the Kirbyville Consolidated Independent School District has territory militates against the conclusion we have reached that the Kirbyville Consolidated Independent School District through its Board of Trustees, has the authority to collect its own taxes. Statutory authority exists for the collection by an independent tax collector, notwithstanding the assessment was made by the County Tax Assessor-Collector. In other words, the assessor and collector may be different, depending upon the election made by the Board of Trustees as to how the matter is to be handled.

In other words, the Kirbyville Consolidated Independent School District is in effect a new independent district unaffected by the prior districts entering into its consolidation. In the absence of an election by an independent school district to avail itself of the statutory privilege of having its taxes assessed and collected by the County Tax Assessor-Collector, it possesses the power to have its own assessor and collector. It appears from the undisputed facts disclosed by your letter that the Kirbyville Consolidated Independent School District desires to collect its own taxes which negatives any intent to have them collected by the Tax Assessor-Collector of Newton County.

SUMMARY

An independent school district has authority to designate and appoint, by appropriate order or ordinance of the Board of Trustees of the district, a tax assessor-collector for the district, or it may elect to have this duty performed by the County Assessor-Collector. The fact that a previous assessment has been made by the County Assessor-Collector does not preclude such independent school district from collecting the

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taxes assessed through the collector of
the independent school district upon the
roll made by the County Assessor-Collector.

APPROVED:

W. V. Geppert
Taxation Division

E. Jacobson
Executive Assistant

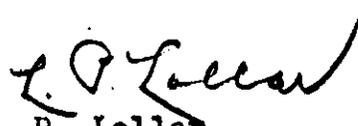
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Yours very truly,

PRICE DANIEL
Attorney General

By


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