



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

June 25, 1962

Honorable R. E. Swift  
County Attorney  
Anderson County  
Palestine, Texas

Opinion No. WW-1360

Re: Whether Article 6228a-5,  
Vernon's Civil Statutes,  
(Senate Bill 17, Acts  
1962, 57th Leg., 3rd Called  
Session, p. 60, ch. 22, Sec.  
1) applies to a County School  
Superintendent of Public In-  
structions.

Dear Mr. Swift:

In your recent letter you request our opinion upon whether Article 6228a-5, Vernon's Civil Statutes (Senate Bill 17, Acts 1962, 57th Leg., 3rd Called Session, p. 60, ch. 22 Sec. 1) applies to a County School Superintendent of Public Instructions.

Article 6228a-5, which is Senate Bill 17, Acts 1962, 57th Leg., 3rd Called Session, p. 60, ch. 22, Sec. 1, reads as follows:

"Local Boards of Education of the Public Schools of this state and the Governing Boards of the State-supported institutions of higher education are hereby authorized to enter into agreements with their employees for the purchase of annuities for their employees as authorized in Section 403(b) of the Internal Revenue Code of 1954, as amended."

The question then becomes whether the County Superintendent of Public Instructions is an employee of a local Board of Education of the Public Schools of this state.

This office, in Opinion WW-1051 (1951), held that a County School Superintendent is in fact an officer of the State. The Court, in Webb County v. Board of School Trustees, 95 Tex. 131, 65 S.W. 878 (1901), stated:

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"Though in a sense a county officer, and though called 'County Superintendent,' he is in fact the officer and agent of the State."

Therefore, you are advised that Article 6228a-5 does not apply to the County School Superintendent, as he is a state officer and not an employee of the Local Board of Education of Public Schools.

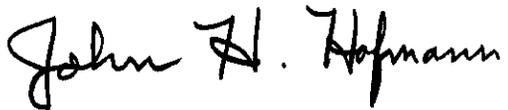
S U M M A R Y

Article 6228a-5 does not apply to County Superintendent of Public Instructions as he is a state officer and not an employee of the Local Board of Education of Public Schools of Texas.

Very truly yours,

WILL WILSON  
Attorney General of Texas

By



John H. Hofmann  
Assistant

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APPROVED:

OPINION COMMITTEE

W. V. Geppert, Chairman

Marvin Thomas  
Harry Hewell  
Grady Chandler

REVIEWED FOR THE ATTORNEY GENERAL  
BY: Leonard Passmore