



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

March 21, 1989

Honorable D. R. "Tom" Uher  
Chairman  
Budget and Oversight,  
Higher Education Committee  
Texas House of Representatives  
P. O. Box 2910  
Austin, Texas 78769

LO-89-26

Dear Representative Uher:

You ask four questions about the authority of the Wharton County Junior College District to annex certain territory in Fort Bend County.

The Wharton County Junior College District is a county-wide junior college district established pursuant to Chapter 130 of the Texas Education Code. You inform us that residents of Fort Bend County are interested in the annexation of part of the county by the district. Such an annexation would include all of the territory of several school districts in Fort Bend County and some of the territory of other school districts in the county. Several of these districts border on the junior college district. Other school districts do not border on the junior college district, but their boundaries touch the boundaries of school districts that do border on the junior college district.

You first ask:

May territory be annexed to the WCJC, a county-wide junior college district organized under Subchapter C of Chapter 130 of the Texas Education Code, by utilizing Section 130.065 of the Texas Education Code, entitled 'Annexation by Election'?

A brief submitted with your request makes clear that you are asking whether the district may rely on section 130.065 as the substantive basis for the annexation. Chapter 130 of the Education Code provides for the creation and governance of junior college districts, and sections 130.061 through 130.073 of that chapter provide for changes in district boundaries. Section 130.063 provides:

Territory may be annexed to the junior college district for junior college purposes only, by either contract or election, if:

(1) the territory consists of a school district or part of a school district that is adjacent to the junior college district; or

(2) the territory consists of a school district or part of a school district and:

(A) is not contiguous with any junior college district;

(B) is not more than five miles from the annexing junior college district at its closest point; and

(C) is located in the same county as the annexing junior college district and the county has a population of 1,500,000 or more.

See also Educ. Code § 130.066 (providing for annexation under circumstances not relevant here). Section 130.064 sets out the procedure for annexation by contract. Section 130.065 sets out the procedure for annexation by election. Section 130.065 is a procedural provision; it is not itself independent authority to annex territory. Sections 130.063, 130.064, and 130.065 were all derived from the same statute, article 2815h, V.T.C.S. Acts 1969, 61st Leg., ch. 889, at 2735 (recodifying art. 2815h as §§ 51.063 through 51.065 of the Education Code; renumbered as §§ 130.063 through 130.065 by Acts 1971, 62nd Leg., ch. 1024, at 3278). An examination of the language of article 2815h makes clear that sections 130.064 and 130.065 are procedural provisions and were not intended to increase the authority of a junior college district to annex territory.

Your second question is:

Assuming that Section 130.065 of the Texas Education Code is applicable to an annexation of territory to the WCJC, is Section 130.063 of the Texas Education Code also applicable to this annexation?

Again, section 130.065 is applicable to the extent that it sets out the procedure for annexation by election. Section 130.063 supplies the substantive authority for annexation.

Your third question is:

May the territory annexed to a junior college district, through a single annexation, under Section 130.065 (and 130.063 if applicable) of the Texas Education Code, include the territory of more than one, or more than part of one, school district, or may only the territory of one school district, or part of one school district, be added through a single annexation?

We assume that you are asking whether a single election can be held to determine whether territory encompassing more than one school district or parts of one school district may be annexed. Section 130.063 provides that "[t]erritory may be annexed . . . if . . . the territory consists of a school district or part of a school district." Section 130.065(a) provides:

If the annexation is by election, a petition signed by five percent of the property taxpaying electors in the territory seeking to be annexed shall be presented to the county school board of the county or to the commissioners court of the county in case there is no county school board. (Emphasis added.)

We think those provisions make clear that a single annexation may include no more than the territory of one school district. A brief submitted in response to your request suggests a contrary answer based on the rule of statutory construction that the singular includes the plural and the plural includes the singular. See Gov't Code § 311.012(b). Although that maxim of statutory construction may be useful in some contexts, it would be inappropriate to apply it to every singular noun used anywhere in a code. For example, references to the governor or the attorney general should not be interpreted as references to the governors or the attorneys general. Therefore, we think that application of the maxim that the singular includes the plural should be reserved for situations in which context or legislative history indicates that the legislature would have intended the singular to include the plural.

In the case of section 130.063, we conclude that context and legislative history indicate that the maxim that the singular includes the plural should not be applied. First, the phrase "a school district or part of a school district" is used to define the territory that may be the subject of an annexation. To read "school district" as "school districts" would give an entirely different meaning

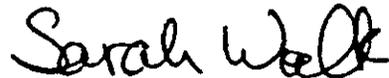
to the definition. Also, before 1981, section 130.063 read as follows:

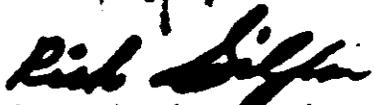
Territory consisting of school districts or parts of school districts adjoining or lying adjacent to any junior college district may be annexed to the junior college district for junior college purposes only, by either contract or election.

Acts 1969, 61st Leg., ch. 889, at 2735 (enacted as § 51.063; renumbered as section 130.063 by Acts 1971, 62nd Leg., ch. 1024, art 1, § 1, at 3278). In 1981 the legislature amended the statute and changed the plural to the singular. Therefore, we must conclude that the legislature intended that a single annexation could not encompass an area greater than one school district.<sup>1</sup>

Your fourth question assumes that a single annexation could include the territory of all or parts of more than one school district. Since we rejected that interpretation, we need not address your fourth question.

Very truly yours,

  
Sarah Woelk, Chief  
Letter Opinion Section

  
Rick Gilpin, Chairman  
Opinion Committee

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APPROVED: OPINION COMMITTEE

SW/RG/lcd

Ref.: RQ-1595  
ID# 4935

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1. We do not mean to say that separate elections may not be held on the same day in different school districts as long as the area sought to be annexed in each of those elections is independently eligible to be annexed.