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The Honorable Dan Morales
Office of the Attorney General
Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Re: Levying and collecting ad valorem taxes under the County Education District (CED) system

Dear Attorney General Morales:

This letter requests an opinion with respect to the responsibility for the levying and collection of ad valorem taxes under the CED system, and with respect to the enforceability of those responsibilities when certain independent school districts (ISDs) fail to properly appraise property and to fully collect ad valorem taxes.

Under current law, there are 188 CEDs in the state, each of which is an ISD established for the limited purpose of exercising a portion of the taxing power previously authorized by the voters in those districts and of distributing revenue of the CED to those districts. TEX. EDUC. CODE sec. 20.942. Each ISD in the state is within one of the CEDs, and some of the CEDs include ISDs from a number of counties.

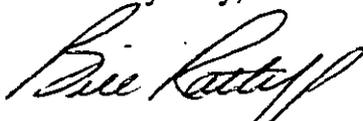
The Education Code requires the CEDs to raise a set amount of money by levying an ad valorem tax at a rate sufficient to generate that amount of revenue. The code also provides for placing responsibility upon the individual ISDs for the actual assessment and collection of the ad valorem taxes. TEX. EDUC. CODE secs. 16.252(d), 20.945(a)-(b). Certain problems have arisen in some multi-county CEDs, related to the uneven appraisals of property values and uneven collection rates among the ISDs within these CEDs. The result of these uneven appraisal and collection rates is that some ISDs are carrying a greater share of the burden in generating revenue than was intended under the legislation. Also, if a CED fails to collect its required amount, it is possible that an ISD that had properly appraised and fully collected its share of the CED's taxes could nonetheless be adversely affected. Therefore, I respectfully request that you review these issues and issue a formal opinion which answers the following questions.



1. Does section 11.86(d) of the Education Code authorize an ISD to require the Comptroller to audit another ISD within its CED to determine the total taxable value of property in that district? If so, does the Comptroller, Commissioner of Education, or another state official have authority to compel taxing officials in the audited ISD to adjust property valuations to proper levels as determined by the audit?
2. Section 20.945(b) of the Education Code grants legal authority to ISDs to take actions on behalf of the CED to assure the efficient collection of taxes. Does this section authorize ISDs to compel other ISDs within their CED to collect 100 percent of the ad valorem taxes levied in that ISD? If so, by what mechanism may that authority be exercised?
3. Section 16.501(e) authorizes the Commissioner of Education to adopt rules governing the distribution of a CED's funds back to the ISDs in the event that the total amount available for distribution is less than the amount the CED was required to collect. No such rules have been published as yet in the Texas Register. Is the Commissioner required to publish such rules? If so, what guidelines must the Commissioner establish to ensure that only those ISDs within the CED that caused the shortfall through improper appraisals and/or insufficient collections are adversely affected by the reductions, and to ensure that those ISDs which properly appraised and fully collected ad valorem taxes receive their full distribution?
4. What should be the ultimate disposition of tax revenue which was delinquent at the close of an ISD's fiscal year but which is collected at a date after the redistribution of CED funds back to the ISDs?
5. Can an ISD within a multi-county CED bring a cause of action based on another entity's failure to properly appraise property and fully collect ad valorem taxes?

Thank you for your prompt attention to these issues.

Yours very truly,



William R. Ratliff
State Senator