



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

This Opinion
Affirms Opinion

V-591

August 18, 1950

Hon. Woodrow Curtis
County Attorney
Frio County
Pearsall, Texas

Opinion No. V-1087.

Re: The legality of residents of Frio County and of a county line consolidated school district voting for county school trustees and county superintendent in Frio County.

Dear Sir:

We refer to your recent request which reads in part as follows:

"The Moore Independent School District has been entirely in Frio County, Texas, and it consisted of a part of, but not all of Commissioners Precinct No. 3, of Frio County, Texas, and such school district has consolidated with the Yancey Independent School District under the Rural High School Consolidation Law. The Yancey Independent School District is entirely in Medina County, and the Yancey Independent School District has the management and control of the consolidated district hereinafter called Yancey-Moore Consolidated School District.

"1. Do the people who reside in the bounds of this Yancey-Moore Consolidated School District, which lies in Frio County, have a right to vote for county school trustees in Frio County?

"2. As pointed out above the Yancey-Moore Consolidated School District does not embrace the entire bounds of Commissioners Precinct No. 3, in Frio County, Texas, therefore would those people who are residents of the Commissioners Precinct No. 3, but are not residents of the Consolidated School District, be entitled to elect the County School Trustee from the said Precinct No. 3?

"3. Will the people from the Yancey-Moore Consolidated School District of which the Yancey Independent School District has the management and control of the consolidated district, have a legal right to vote for trustee at Large in Frio County?

"4. Will the people who reside in the Yancey-Moore Consolidated School District, and who reside in that portion of Frio County being in such district, have a legal right to vote for the County Superintendent of Schools in Frio County?"

We believe your first and third questions are answered by Attorney General's Opinion No. V-591. We therefore agree with you that the people who reside in the Yancey-Moore Consolidated School District and who are residents of Frio County may not vote for county school trustees or county school trustees at large of Frio County. A copy of Attorney General's Opinion No. V-591 is enclosed. The opinion rests on statutory provisions having for their basis the premise that persons are not eligible to vote for trustees who do not govern their particular school district. Though part of the district in question is in Frio County, it is under the administration of the officials of Medina County.

Article 2676, V.C.S., provides in part:

"The general management and control of the public free schools and high schools in each county, unless otherwise provided by law shall be vested in five (5) county school trustees elected from the county, one of whom shall be elected from the county at large by the qualified voters of the common and consolidated independent school districts of the county, and one from each Commissioners' Precinct by the qualified voters of each Commissioners' Precinct, . . ."

In view of the above quoted statute it is our opinion that the residents of Commissioners' Precinct No. 3 of Frio County who do not reside in the Yancey-Moore Consolidated School District and who are otherwise qualified voters, may vote for a county school trustee from Precinct No. 3 as well as for the county trustee at large for such county.

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Section 1 of Article VI of the Constitution of Texas provides that certain classes of persons are disqualified to vote in Texas. Section 2 of this Article provides in part:

"Every person subject to none of the foregoing disqualifications, who shall have attained the age of twenty-one years and who shall be a citizen of the United States and who shall have resided in this State one year next preceding an election and the last six months within the district or county in which such person offers to vote, shall be deemed a qualified elector; . . ."

Articles 2954 and 2955 of Vernon's Civil Statutes contain similar provisions.

Article 2688, V.C.S., provides:

"The Commissioners Court of every county having three thousand (3,000) scholastic population or more as shown by the preceding scholastic census, shall at a General Election provide for the election of a County Superintendent to serve for a term of four (4) years, who shall be a person of educational attainments, good moral character, and executive ability, and who shall be provided by the Commissioners Court with an office in the courthouse, and with necessary office furniture and fixtures. He shall be the holder of a teacher's first grade certificate or teacher's permanent certificate. In every county that shall attain three thousand (3,000) scholastic population or more, the Commissioners Court shall appoint such superintendent who shall perform the duties of such office until the election and qualification of his successor. In all counties now or hereafter having the office of County Superintendent where the scholastic population according to the last scholastic census is less than three thousand (3,000) but more than two thousand (2,000) the office of County Superintendent shall continue unless and until a majority of the qualified property tax paying voters of said county, voting at an election held to determine whether said

office shall be abolished, shall vote to abolish said office, which election shall be ordered by the Commissioners Court upon petition therefor as hereinafter specified. Provided, however, that if a majority of said voters voting at said election hereinabove provided for, vote to abolish said office said election shall not become effective until the expiration of the term of office for which the County Superintendent has been elected or appointed. And in all other counties having less than three thousand (3,000) scholastic population whenever more than twenty-five (25) per cent of the qualified voters of said county as shown by the vote for Governor at the preceding General Election shall petition the Commissioners Court therefor, said Court shall order an election for said county to determine whether or not the office of County Superintendent shall be created in said county; and, if a majority of the qualified property taxpaying voters voting at said election shall vote for the creation of the office of County Superintendent in said county, the Commissioners Court, at its next regular term after the holding of said election, shall create the office of County Superintendent, and name a County Superintendent who shall qualify under this Chapter, and hold such office until the next General Election. . . ."

In Thomas v. Groebl, 147 Tex. 70, 212 S.W.2d 625 (1948) it is stated:

"The right to vote is so fundamental in our form of government that it should be as zealously safeguarded as are our natural rights. It has been said that 'laws abridging the natural right of the citizen should be restrained by rigorous constructions within their narrowest limits.' It is sufficient, however, that we apply here the less extreme and well established rule of construction that statutes regulating the right to vote should be given a liberal interpretation in favor of that right."

It is observed that Article 2688 does not except any of the residents of the county from its provisions in

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the instances where an election for a county superintendent is authorized. On the contrary, we believe it contemplates that all of the residents of the county who are otherwise qualified voters may vote in the election for the County School Superintendent. Therefore, it is our opinion that the residents of Frio County, who reside in the Yancey-Moore Consolidated School District and who are otherwise qualified voters are legally entitled to vote for the Superintendent of Public Schools of such county. Art. 2688, V.C.S.; Thomas v. Groehl, supra.

SUMMARY

The residents of Precinct No. 3 of Frio County who do not reside in the Yancey-Moore Consolidated School District, and who are otherwise qualified voters, may vote for a county school trustee from Precinct No. 3 as well as for the county school trustee at large for such county. Art. 2576, V.C.S.

The residents of Frio County who reside in the Yancey-Moore Consolidated School District and who are otherwise qualified voters are legally entitled to vote for the Superintendent of Public Schools of such county. Art. 2688, V.C.S.; Thomas v. Groehl, 147 Tex. 70, 212 S.W.2d 625 (1948). Opinion No. V-591 affirmed.

Yours very truly,

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APPROVED:

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BA:mv
Encl.