

board of education of the district but not less than 10 days following the date of approval of the superintendent of public instruction.

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Attorney General.

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SCHOOLS: Intermediate school districts — Special Education Programs.

An intermediate school district, as successor to a county school district voting to come under Secs. 309 through 327 of the School Code of 1955, to provide special education, is not required to vote on the same question again in order to be subject to Secs. 307a through 324a of the School Code of 1955 as added by Act 190, P.A. 1962.

No. 4165

May 20, 1963.

Dr. Lynn M. Bartlett
Superintendent of Public Instruction
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Act 269, P.A. 1955, as amended, being C.L.S. 1956, § 340.1 et seq.; M.S.A. 1959 Rev. Vol. § 15.3001, et seq., is known as the School Code of 1955.

As originally enacted, the legislature empowered the school electors of a county school district to provide for special education within the county by voting to become subject to the provisions of Secs. 309 through 327 of the School Code of 1955.

By means of Act 190, P.A. 1962, effective March 28, 1963, the legislature supplanted the county school districts with intermediate school districts by adding 45 new sections to stand as Secs. 291a through 328a, and to repeal Secs. 291 through 328 of the School Code of 1955.

You inform us that a number of county school districts have heretofore adopted Secs. 309 through 327 of the School Code of 1955 and have been financing such programs with annual property tax levies.

Based upon these facts you ask the following question:

“Did the legislature intend that the intermediate school districts, as successors of county school districts subject to Secs. 309 through 327 of the School Code of 1955, submit the question of special education programs under Secs. 307a through 324a of the School Code of 1955, as amended by Act 190, P.A. 1962 to the electors of the intermediate school districts?”

The Michigan Supreme Court in *Kent County Board of Education v. Kent County Tax Allocation Board*, 350 Mich. 327 (1957), has held that the action of the school electors in approving Sections 309 to 327 of the School Code of 1955, as originally enacted, served to form a statutory charter for the county school district.

Sec. 292a of the School Code of 1955 was added by Act 190, P.A. 1962, and provides in pertinent part as follows:

“As of the effective date of this chapter, those local school districts constituting a county school district, as determined by the filing of the most recent annual and statistical report required by the superintendent of public instruction, shall constitute the intermediate school district of that county. *The intermediate school district shall possess all the rights and privileges of the county school district which it has succeeded except as provided in this chapter.* * * * (Emphasis supplied)

The primary rule of statutory construction is to ascertain and give effect to the intention of the legislature. *Van Antwerp v. State*, 334 Mich. 593. A statute should be interpreted in the light of the purpose sought to be accomplished by the legislature. *Lakehead Pipe Line Company v. Dehn*, 340 Mich. 25.

In construing the provisions of the School Code, the court would give consideration to all of the provisions of the School Code. *School District No. 3, Mt. Haley Township v. State Board of Education*, 364 Mich. 160.

Sec. 2 of Act 190, P.A. 1962, in clear and unambiguous language, repeals Secs. 309 through 327 of the School Code of 1955. However, it is equally clear that the legislature in Sec. 292a of the School Code of 1955, as added by Act 190, P.A. 1962, conferred upon intermediate school districts all of the rights and privileges of the county school district which it succeeded except as provided by the legislature in the chapter.

Thus, the conclusion is imperative that the legislature intended that intermediate school districts as successors to county school districts voting to come under Secs. 309 through 327 of the School Code of 1955 retain rights thereunder as the intermediate school districts authorized by Sec. 292a of the School Code of 1955, and to continue their operations pursuant to Secs. 307a through 324a of the School Code of 1955, as added by Act 190, P.A. 1962, without further authorization by vote of the school electors.

It must follow, therefore, that Sec. 307a, which authorizes Secs. 307a through 324 of the act to become effective when a majority of the school electors of an intermediate school district presently voting thereon approve the same, applies to those intermediate school districts where the question of special education had not been theretofore voted upon by the school electors.

It is the opinion of the Attorney General that an intermediate school district, as the successor to a county school district voting to come under Secs. 309 through 327 of the School Code of 1955 prior to its amendment by Act 190, P.A. 1962, is not required to vote on the same question again in order to be subject to Secs. 307a through 324a of the School Code of 1955, as added by Act 190, P.A. 1962.

FRANK J. KELLEY,
Attorney General.