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SCHOOLS: Intermediate Districts.
Intermediate Board of Education.
Election and Qualification of Board Members.
ANNEXATION: Intermediate School Districts.
Election and Qualification of Board Members.

Where an intermediate school district annexes another intermediate school district, members of the board of education of such annexing intermediate school district need not be elected at the next biennial election in a popular election unless the school electors of the annexing district have voted to come under sections 294b to 294h of the School Code of 1955.

Board members of an annexing intermediate school district need not be elected from the constituent intermediate districts in the ratios provided by section 302a of the School Code of 1955, as amended.

No. 4430

April 22, 1965.

Hon. Arnell Engstrom
House of Representatives
Lansing, Michigan

You have requested my opinion on the following questions:

1. Does section 303a of the School Code of 1955, as amended, require a popular election of board members of a reorganized intermediate school district resulting from one or more annexations?
2. Must board members of a reorganized intermediate school district resulting from one or more annexations be elected from the constituent intermediate districts in the ratios provided by section 302a of the School Code of 1955, as amended?

Act 269, P.A. 1955, as amended (C.L.S. 1961 § 340.1, et seq.; M.S.A. 1959 Rev. Vol. § 15.3001, et seq.), is known as the School Code of 1955. Section 303a of the School Code (added by Act 190, P.A. 1962) provides that any intermediate school district may be annexed to another.

After prescribing the procedure for annexation, section 303a provides for interim representation of the annexed district on the board and for a subsequent "election" as follows:

" . . . Within 30 days after the effective date of annexation, the board of the annexing district shall appoint 2 tax electors of the constituent districts of the annexed district to membership on the board of the reorganized district, who shall serve until July 1 following the next biennial election, and notification of the appointments shall be filed with the state board of education. If the appointments are not made within the 30 days, the state board of education shall make the appointments. *At the next biennial election, members of the board shall be elected to the number and for the terms as required in section 302a of this chapter.* The terms of the members of the board whose terms have not expired shall determine the terms of the additional members to be elected." (Emphasis supplied)

Section 302a of the School Code referred to was last amended by Act 290, P.A. 1964. It provides in pertinent part that:

"The secretary of the interim board shall take all necessary steps to provide for the election of a board of the reorganized intermediate district in accordance with the provisions of sections 294b to 294h of this act. At the first election there shall be elected 3 members of a board for 6 years, 2 for 4 years and 2 for 2 years. At least 3 members shall be from 1 district if there are 2 intermediate districts that have joined together, at least 2 from each district if 3 districts joined and at least 1 member from each district if there are 4 or more intermediate districts joined together. Thereafter their successors shall be elected biennially for a term of 6 years. The time from the date of election to the next July 1 shall be considered 1 year."

In construing these sections, the primary purpose must be to ascertain and give effect to the intention of the legislature. (*Lee v. Employment Security Commission*, 346 Mich. 171 (1956)).

The meaning of the statute must be determined from the form of expression of the legislative will unless there is something in the legislative history of the statute to furnish aid in construing it. (*Kales v. City of Oak Park*, 315 Mich. 266 (1946)).

Act 190, P.A. 1962, which amended the School Code of 1955 to add sections 302a and 303a, at issue here, began its legislative life as House Bill 266. Section 303a which deals with annexation of intermediate school districts was enacted without any change. (See House Journal 1962, Vol. 1, p. 754, and Senate Journal 1962, Vol. 2, p. 1244).

Section 302a, as originally introduced, did not contain the following language:

"Each of the original intermediate districts shall have at least two members on the new board."¹

This language was added as an amendment by the Senate. (Senate Journal 1962, Vol. 2, p. 1190). It is significant in fixing legislative intent that the Senate did not make a corresponding amendment to section 303a.

Section 294a of the School Code of 1955, as added by Act 190, P.A. 1962, provides for the election of members of the intermediate board of education by vote of designated representatives of each constituent school district within the intermediate school district.

Popular election of members of the intermediate board of education is provided pursuant to sections 294b to 294h of the School Code of 1955, as added by Act 190, P.A. 1962, and as last amended by Act 290, P.A. 1964, upon approval of the electors of the constituent school districts comprising the intermediate school district.

There is no provision found in section 303a of the School Code of 1955, as added by Act 190, P.A. 1962, that would require the secretary of an

¹ This section was last amended by Act 290, P.A. 1964, and the quoted language was deleted. The legislature imposed other geographical requirements.

intermediate board of education to which other intermediate school districts have been annexed to provide for the election of the members of the board of the intermediate school district at a popular election.

While it is true that section 302a of the School Code of 1955, as added by Act 190, P.A. 1962, and last amended by Act 290, P.A. 1964, provides that in intermediate school districts that are reorganized by *consolidation* the secretary of the interim board is required to take all necessary steps to provide for the election of the board of the intermediate district in accordance with the provisions of sections 294b to 294h of the School Code of 1955, the legislature did not make similar provision as to *annexation* in section 303a of the School Code of 1955.

Section 303a of the School Code of 1955 makes reference to section 302a in that at the next biennial election "members of the board shall be elected to the number and for the terms as required in section 302a." It is significant that the only reference to section 302a is relative to the number and for the terms of the members of the intermediate board.

The term "number" has been held to mean "number of." (*Duvall and Pelham v. The State*, 63 Ala. 12, 17 (1879)).

The word "term" has been held to mean the fixed period for holding office. (*State ex rel. Ross v. Carroll*, 234 P. 22 (Wash. 1925); *State ex rel. Polk v. Galusha*, 104 N.W. 197 (Neb. 1905)).

If the members of the board of education of an intermediate school district to which other intermediate school districts have been annexed are to be elected at popular elections, the school electors of the annexing intermediate school district must have voted to come under sections 294b to 294h of the School Code of 1955 or the legislature must so provide.

Therefore, it is the opinion of the Attorney General that section 303a of the School Code of 1955 does not require a popular election of board members of reorganized intermediate school districts resulting from one or more annexations except where the school electors of the annexing district have voted to come under sections 294b to 294h of the School Code of 1955.

2. The reasoning that has been employed in answering your first question is equally applicable to answer the second question.

The legislature has not provided in section 303a of the School Code of 1955 that board members of a reorganized intermediate school district resulting from one or more annexations be elected from the constituent intermediate districts in the ratios provided by section 302a of the School Code of 1955, as amended.

While section 303a of the School Code of 1955, *supra*, makes reference to section 302a of the School Code of 1955, *supra*, it does so only for the limited purpose of specifying the number of board members and terms and for no other purpose. To read the geographical requirement in section 303a of the School Code of 1955 would be to enlarge the scope of the statute. This is a prerogative of the legislature. *People v. Vaines*, 310 Mich. 500 (1945).

Therefore, it is the opinion of the Attorney General that board members

of a reorganized intermediate school district resulting from one or more annexations need not be elected from the constituent intermediate school districts in the ratios provided in section 302a of the School Code of 1955, as amended.

FRANK J. KELLEY,
Attorney General.

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CONSTITUTIONAL LAW: Legislation – Dual-purpose bill.
APPROPRIATIONS: For private or local purpose.

Legislative bill which proposes to provide uniform relief for eligible senior citizens who are homeowners or renters from the cost of housing as it relates to the burden of real property taxes has only one purpose and does not violate Art. IV, Sec. 24, Constitution 1963.

A legislative bill which would grant relief to eligible senior citizens who are homeowners or renters in the form of reimbursement determined under a formula related to taxation is not an appropriation of public money or property for a local or private purpose and does not violate Art. IV, Sec. 30, Constitution 1963.

No. 4435

April 26, 1965.

Honorable George Romney
Governor
State of Michigan
Lansing, Michigan

By letter of April 6, 1965 you requested my opinion on two questions relative to the constitutionality of a legislative bill which would provide for uniform relief for eligible senior citizens from the cost of housing as it relates to the burden of real property taxes. You have furnished me with a copy of the "Report of the Governor's Commission on Senior Citizens' Property Tax Relief," sometimes referred to as the Pelham Report because of the name of the Chairman of the Commission. It appears from the Report that a recommendation is made by the Commission for a form of reimbursement of the cost of housing to Michigan citizens 65 years of age or older who own and occupy real property as a homestead. It is further recommended by the Commission that comparable reimbursement be given to senior citizens who rent a dwelling or housing unit which they occupy as their home. It is proposed in the Report that the amount of such reimbursement be determined under a formula based upon state equalized valuations with a maximum limitation as a test of eligibility.

You have submitted the following questions for my opinion:

"It is requested that you advise whether the homeowners and the renters can be handled in the same bill or whether separate bills are needed so as to comply with Sec. 24 of Article IV which, in essence,