

## OPINION NO. 72-089

## Syllabus:

1. Joint vocational school districts and technical college districts may not make arrangements under Section 3311.218, Revised Code, for the sharing of facilities or for the contribution by the joint vocational school district to the technical college district of funds for operating expenses, unless the two districts are coterminous. "Coterminous", for purposes of this Section, means "having the same or coincident boundaries; covering or involving the same area."

2. It is within the authority of the Ohio Board of Regents, under Section 3357.02, Revised Code, to approve the enlargement of a technical college district by the addition of one or more new member counties or school districts. The procedure used would be the same as with the original creation of the district.

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To: John W. Weaner, Defiance County Pros. Atty., Defiance, Ohio  
By: William J. Brown, Attorney General, October 5, 1972

Your request for my opinion reads as follows:

"(1) Are the district boundaries of a joint vocational school district and a technical college district coterminous if:

a. The joint vocational district contains 22 school districts (the last one having come in Dec. 13, 1971) and the technical college district presently has 21 school districts. The original 21 districts in the vocational school are paying taxes during the current (1972) year.

b. If your response to item 'a' is negative, what action is necessary for the technical college district to take in order for the boundaries to again be coterminous?

c. If your answer is in the affirmative, would the technical college district need to be enlarged prior to Dec. 31, 1972 at which time the 22 or last district to join would start to pay taxes to the joint vocational district?

"(2) This question pertains to that part of Section 3311.218 of the Ohio Revised Code which reads:

"May further provide that the joint vocational school district may contribute a portion of its funds for current operating expenses, regardless of whether such funds are derived from a tax levy or otherwise, to the technical institute district to be expended by

the technical institute district for any lawful purpose.'

"The tax levy ballot which was passed by the voters in the joint vocational school district on November 2, 1971 read in part as follows:

"'...for the benefit of the Four-County Vocational School District for the purpose of providing for current expenses of said School District...'  
(Copy of ballot enclosed.)

"Is it legal for the vocational school district to forego charging operating expenses to the technical college district and in the future may the vocational school district donate a portion of its operating funds for the purposes outlined in that part of the code section above quoted?"

Section 3311.218, Revised Code, reads as follows:

"The board of education of a joint vocational school district may enter into a written agreement with the board of trustees of any technical college district, the boundaries of which are coterminous with such joint vocational school district, which agreement may provide for the sharing of use of any physical facility or equipment owned or used by either district. Such agreement may further provide that the joint vocational school district may contribute a portion of its funds for current operating expenses, regardless of whether such funds are derived from a tax levy or otherwise, to the technical college district to be expended by the technical college district for any lawful purpose. The agreement shall require the approval by resolution of both boards and shall be executed by the president and clerk of both boards. A copy of such agreement shall be filed with the board of regents and a copy shall be filed with the state board of education." (Emphasis added.)

Your first question concerns the fact that Section 3311.218 limits these arrangements to situations where the joint vocational school district and the technical college district are coterminous. The word "coterminous" is defined in Webster's Third International Dictionary of The English Language Unabridged (1970), to mean "having the same or coincident boundaries; covering or involving the same area." In the fact pattern you have presented, although the two districts in question occupy much the same area, they are not coterminous since the joint vocational school district includes the area of a member school district which is not a part of the technical college district. Consequently, there can be no arrangement under Section 3311.218 for the sharing of funds and facilities.

Your next question asks what action is necessary for the technical college district in order to make the boundaries again coterminous. This would, of course, require an expansion of the technical college district to include the same member school districts as the joint vocational school districts.

Chapter 3357, Revised Code, provides for the establishment and operation of technical college districts. However, there is

no procedure established by statute specifically for the enlargement of a technical college district by the addition of one or more member school districts. The effect of this omission on the authority to expand requires a consideration of those Sections describing the nature of a technical college district and the manner in which it may be created.

Section 3357.01, Revised Code, defines a technical college district as follows:

"(B) 'Technical college district' means a political subdivision of the state and a body corporate with all the powers of a corporation, comprised of the territory of a city school district or a county, or two or more contiguous school districts or counties, which meets the standards prescribed by the Ohio board of regents pursuant to section 3357.02 of the Revised Code, and which is organized for the purpose of establishing, owning, and operating one or more technical colleges within the territory of such district."

The creation of the district is provided for in Section 3357.02, Revised Code, which reads:

"A technical college district may be created with the approval of the Ohio board of regents pursuant to standards established by it. Such standards shall take into consideration such factors as the population of the proposed district, the present and potential pupil enrollment, present and potential higher education facilities in the district, and such other factors as may pertain to the educational needs of the district. The Ohio board of regents may undertake a study or contract for a study to be made relative to its establishment or application of such standards.

"A proposal to create a technical college district may be presented to the Ohio board of regents in any of the following ways:

"(A) The board of education of a city school district may by resolution approved by a majority of its members propose the creation of a technical college district consisting of the whole territory of such district.

"(B) The boards of education of two or more contiguous county, city, exempted village, or local school districts may by resolutions approved by a majority of the members of each participating board of education propose the creation of a technical college district consisting of the whole territories of all the participating school districts.

"(C) The board of education of any county may by resolution approved by a majority of its members propose the creation of a technical college district consisting of the whole territory of such county.

"(D) The boards of education of any two or

more contiguous counties may by resolution approved by a majority of the members of each participating board of education, propose the creation of a technical college district consisting of the whole territories of such counties.

"(E) Qualified electors residing in a city school district, in a county, in two or more contiguous school districts, or in two or more contiguous counties may execute a petition proposing the creation of a technical college district comprised of the territory of the city school district, county school district, two or more contiguous counties, respectively. Such petition shall be presented to the board of elections of the most populous county in which the technical college district is situated and shall bear the signatures of at least two per cent of the total number of resident electors who voted in the last preceding election for governor in the territory of such proposed district. Such petition shall set forth the necessity for the district, a demonstration that it will be conductive [conducive] to the public convenience and welfare, and a description of the territory to be included in the proposed district.

"Upon receiving a petition duly executed pursuant to division (E) of this section, the board of elections of the most populous county shall certify the fact of such petition to the boards of elections of the other counties, if any, in which any of the territory of the proposed district is situated. The proposal to create a technical college district shall be placed on the ballot by the board of elections and submitted to vote in each affected city school district, county, or group of contiguous school districts or counties, at the next primary or general election occurring more than sixty days after the filing of such petition. If there is no primary or general election occurring within ninety day [days] after the filing of such petition, the board of elections of the most populous county shall fix the date of a special election to be held in each affected city school district, county, or group of contiguous school districts or counties, such date to be not less than sixty days after the filing of the petition. If a majority of electors voting on the proposition in the proposed technical college district vote in favor thereof, the board of elections of the most populous county in which the proposed district is situated shall certify such fact to the Ohio board of regents." (Emphasis added.)

When the establishment of the district has been proposed and approved according to the above Section, Section 3357.03, Revised Code, requires the Ohio Board of Regents to file with the Secretary of State a copy of its "resolution or certificate creating the district."

It should be noted that, while a proposal to create a technical college district is initiated by either the boards of those school districts and counties which will comprise the district, or by the electorate of the affected districts and counties, it is the Board of Regents which finally must approve the establishment of the district. That it is the approval by resolution or certificate of the Board which creates the technical college district is indicated by the language of Section 3357.03.

Once a technical college district has been established and a board of trustees appointed and organized pursuant to Sections 3357.05 and 3357.06, Revised Code, the board of trustees is charged under Section 3357.07, Revised Code, with the preparation of a plan for the establishment of a technical college within the district. This official plan must be approved by the Board of Regents which issues the charter. Amendments to the charter must also be submitted to the Board for approval. Thus it is clear that the Board of Regents is vested with final control over the existence and operation of technical college districts and the institutions operated by the districts.

The Board of Regents in exercising this authority is directed by Section 3357.02 to establish standards which take into consideration the nature and needs of the areas to be served. In effect, the legislature has recognized the need for flexibility on the part of the Board of Regents in developing districts which are best able to satisfy the need for technical education in an area.

It is a well settled rule that a statute must be construed so as to give effect to the intent of the legislature. See Johnson v. The State, 42 Ohio St. 207, 210 (1884); State of Ohio v. Nickles, 159 Ohio St. 353 (1953); and The Fifth Third Union Trust Co., et al., v. Peck, 161 Ohio St. 169, 174 (1954). In the last case, the court said on page 174:

"In the interpretation of a statute and in ascribing to it what appears to be the legislative intent, the statute should be given a fair and reasonable construction in conformity to its general object, in order to effectuate such object, and should not be given such an interpretation as would thwart such purpose. \* \* \*"

In the present case the Board of Regents is given the power to create technical college districts in accordance with standards it has established. As discussed above, it appears clear that these Sections of the Code evidence not only a legislative intent to give the Board of Regents discretion in establishing technical college districts which best serve the area, but also a directive to do just that.

This necessarily implies the power to approve dissolution of the district as well as the creation of a larger district, when, based on the standards adopted pursuant to Section 3357.02, the Board concludes that such action would be necessary.

While it is true that arrangements under Section 3311.218 for the sharing of funds and facilities are in addition to the individual provisions for funding and the acquisition of facilities applicable to each district, the qualification of a technical college district to enter such arrangements is a practical consideration in determining whether the district would be able to finance needed

programs. Therefore, it is my opinion, that it is within the authority of the Board of Regents to approve the expansion of a technical college district if, in the judgment of the Board, the resulting eligibility of the larger district under Section 3311.218 is necessary to satisfy the need for technical education in the area.

In effect then, since a larger technical college district is being created by the addition of a new member district, the same procedure should be used as with the original creation of the district. This is set out in Section 3357.02, and insures approval by the electorate or boards of all member districts and counties in the expanded technical college district.

In specific answer to your question it is my opinion, and you are so advised, that:

1. Joint vocational school districts and technical college districts may not make arrangements under Section 3311.218, Revised Code, for the sharing of facilities or for the contribution by the joint vocational school district to the technical college district of funds for operating expenses, unless the two districts are coterminous. "Coterminous", for purposes of this Section, means "having the same or coincident boundaries; covering or involving the same area."

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