

1643

EDUCATION; EXEMPTED VILLAGE DISTRICT BECOMES PART OF COUNTY DISTRICT—PROPOSALS AND RESOLUTIONS—§3311.09 R.C.—EFFECTIVE DATE OF SUCH CHANGE.

SYLLABUS:

1. Where the board of education of an exempted village school district proposes that its entire territory shall become a part of the county school district and be supervised by the county board of education, that result must be accomplished as provided in Section 3311.09, Revised Code, by the adoption of a resolution to that effect and notification of such action to the county board of education on or before the first day of May in any year, and the approval by the county board of education of such action.

2. Upon notification to the county board of education, of a declaration by the board of education of an exempted village district of its desire to come under the supervision of the county board of education, and approval by said county board, such proposed change shall, under the provision of Section 3311.09, Revised Code, become effective as of the first day of July following the date of such notification, and thereafter such exempted village district shall be known as a local school district and be a part of the county district.

Columbus, Ohio, January 29, 1958

Hon. F. H. Cox, Prosecuting Attorney
Morgan County, McConnellsville, Ohio

Dear Sir:

I have before me your request for my opinion reading as follows:

“Your opinion is respectfully requested in reference to the proper legal interpretation of a portion of Revised Code Section

3311.24. Such section among other provisions authorizes the Board of Education of an Exempted Village School District to propose the transfer of territory from such district 'to a county school district.'

"In Morgan County there are presently in legal existence three school districts, namely: one exempted village school district, one local school district which is contiguous to such exempted village and county school district.

"In the light of the above statutory section, if the Board of Education of the above exempted village school district should, prior to April 1, 1958, propose the transfer of all the territory of such district to the Morgan County School District, does such transferred territory become a part of the above noted contiguous local school district or does such territory become a separate district within the territory limits of the county school district or does it merely become a part of the county school district as such district under Revised Code Section 3311.05. Other than acting as provided under paragraph A under Revised Code Section 3331.24, does the County Board of Education have any authority relative to the annexing of such territory to a contiguous local district as it does under Revised Code Section 3311.231.

"We are in doubt as to what the legal effect of transferring school territory 'to a county school district' implies or provide pursuant to Revised Code Section 3311.24 and would greatly appreciate your legal interpretation in such connection.

"In the event that the Board of Education of the Exempted School District should decide to propose the transfer of territory under the above noted section, action must be taken by such board prior to April 1, 1958. We would therefore appreciate your expeditious and early attention to this reaction."

Section 3311.04, Revised Code, reads as follows:

"Each school district known as an exempted village school district on September 16, 1943, shall be known as an 'exempted village school district' and shall continue to be known as an exempted village school district until it has lost its identity as a separate school district or has acquired a different styling as provided by law."

A "local school district" is defined by Section 3311.03, Revised Code, as follows:

"Each school district, other than a city school district, exempted village school district, county school district, joint high school district, or joint vocational school district, in existence on

September 16, 1943, shall be known as a 'local school district'
* * *

The process by which a village which constitutes a local district may become an exempted village district and thereby pass out of the control of the county district is found in Section 3311.08, Revised Code, which I do not consider necessary here to set out.

Section 3311.09, Revised Code, outlines the procedure whereby an exempted village school district may give up its exemption and become a part of the county school district and come under the supervision of the county board of education. This section reads as follows:

"The board of education of any exempted village or city school district may, by a majority vote of the full membership of such board of education, declare that such exempted village or city school district shall be supervised by the county board of education.

"When the board of education of an exempted village or city school district notifies the county board of education, on or before the first day of May in any year, that it has adopted by a majority vote of its full membership, a declaration that such exempted village school district or city school district shall be supervised by the county board of education, such exempted village school district or city school district shall, upon the approval of the county board of education, become part of the county school district and subject to the supervision of the county board of education commencing the first day of July following the date of such notification.

"An exempted village or city school district upon declaring that it is to be supervised by the county board of education, shall be known as a 'local school district' until its status as such local school district has been changed."

It will be observed that the action of the board of education of such exempted village district is to be taken on or before the first day of May in any year.

This, it appears from your letter, is what the board of education of the village school desires to do, *viz.*, to become a part of the county district. I do not see that either Section 3311.231 or Section 3311.24, Revised Code, would be appropriate for the accomplishment of this purpose. Section 3311.231, Revised Code, gives a county board of education authority to propose the transfer of a part or all of any one or more of any *local*

school districts in the county to an adjoining school district or to an adjoining city or exempted school district but it will be noted that they are authorized only to transfer part or all of a local school district and have no authority under this provision to propose the transfer of a part or all of any *exempted village district*.

Section 3311.24, Revised Code, provides in part as follows:

"If the board of education of a city school district or of an exempted village school district deems it advisable to transfer territory from such district to an adjoining city or exempted village school district or to a county school district, or if a petition, signed by seventy-five per cent of the qualified electors residing within *that portion of a city or exempted village school district* proposed to be transferred voting at the last general election, requests such a transfer, the board of education of the district in which such proposal originates shall file such proposal together with a map showing the boundaries of the territory proposed to be transferred, with the state board of education prior to the first day of April in any even numbered year * * *"
(Emphasis added)

You will observe that this section only contemplates the *transfer of territory from* an exempted village district and does not contemplate the transfer of the entire district. The proceeding under Section 3311.09, Revised Code, which I have pointed out as the appropriate proceeding in the case you present, does not involve a transfer of territory but is merely a relinquishment of the exemption which the district has enjoyed, whereby, as stated in the statute, it becomes a part of the county district, It still retains its identity as a village district but becomes a local district, and thereupon comes under the supervision of the county board. Accordingly, there is no possibility that by such action it could attach itself to an adjoining local district within the county.

Relative to the necessity of action prior to April 1, 1958, I am unable to discover that that date has any relation to the matter in question. As I have already pointed out, the action of the board of the exempted village district under Section 3311.09, Revised Code, is to be taken on or before the first day of May in any year. The reference to the first day of April doubtless came about because that date is mentioned in Section 3311.24, *supra*, as the date for filing a proposal with the superintendent of public instruction.

Accordingly, in specific answer to your questions, it is my opinion:

1. Where the board of education of an exempted village school district proposes that its entire territory shall become a part of the county school district and be supervised by the county board of education, that result must be accomplished as provided in Section 3311.09, Revised Code, by the adoption of a resolution to that effect and notification of such action to the county board of education on or before the first day of May in any year, and the approval by the county board of education of such action.

2. Upon notification to the county board of education of a declaration by the board of education of an exempted village district of its desire to come under the supervision of the county board of education and approval by said county board, such proposed change shall, under the provision of Section 3311.09, Revised Code, become effective as of the first day of July following the date of such notification, and thereafter such exempted village district shall be known as a local school district and be a part of the county district.

Respectfully,

WILLIAM SAXBE

Attorney General