



STATE OF ARKANSAS
THE ATTORNEY GENERAL
LESLIE RUTLEDGE

Opinion No. 2022-024

September 26, 2022

The Honorable Keith Slape
State Representative
HC 33 Box 107
Compton, AR 72624-9622

Dear Representative Slape:

This is in response to your request for my opinion on several questions regarding school millage property taxes. You write that the Compton School District, which was supported by a millage, has closed. You further communicate that the revenues from that millage are now going to the Harrison School District. In this regard, you ask the following:

Question 1: After a school district closes, does the millage levy for that school transfer to another district? Or does the levy cease when the school closes?

Question 2: Does it violate any state or federal law to require a resident of one county to pay a school millage when the millage goes to a school district located in another county?

RESPONSE

The answer to the first part of your first question is "yes." Accordingly, no response is necessary to the second part. If a school district is dissolved and annexed to or consolidated with another school district, the existing millage taxes of the old school district remain in place until changed by the voters of the newly expanded school district. The answer to your second question is "no." School district boundaries often cross county lines, and school districts are considered distinct taxing units. The analysis of this question must be limited, however, to a

discussion of state law, as questions of federal law are generally not within the scope of opinions issued by this office.¹

DISCUSSION

Question 1: After a school district closes, does the millage levy for that school transfer to another district? Or does the levy cease when the school closes?

A school district may be dissolved (or “closed” as you term it), but the area once served by the old district will then be served by an existing school district through either annexation or consolidation. In such an event, the millage levy of a “closed” school district stays in place until changed by the voters of the resulting school district.

The state grants the State Board of Education the power, among others, to dissolve a school district and annex the territory of the dissolved district to another school district.² In such cases, state law makes it clear that the “millage rate of the electors of the [dissolved] district *shall remain the same* until an election may be held to change the rate of taxation for the ... receiving district.”³

Furthermore, when a school district is dissolved and all or part of the area of the dissolved school district is annexed to or consolidated with an existing school district, that existing school district board of directors is required to submit to the electors of the school district, as annexed or consolidated, a proposed tax millage rate for the school district at the next annual school election.⁴ If, after such election, the electors of the enlarged school district approve the millage rate, then that millage rate is the rate for the entire district (so long as that rate complies with the uniform rate of tax).⁵ If, however, the voters do not approve the proposed

¹ Cf. Ops. Att’y Gen. 2020-019, 2019-040, 2015-140.

² Ark. Code Ann. § 6-13-1409(a)(1) (Repl. 2021).

³ *Id.* at §6-13-1409(b) (emphasis added).

⁴ Ark. Code Ann. § 26-80-111(a)(1) (Repl. 2020).

⁵ *Id.* at § 26-80-111(a)(2). It should be noted that a millage might be subject to modification regardless of what the voters have approved in order to comply either with the 25-mill uniform rate of tax mandated by the Arkansas Constitution, or any other adjustment required to ensure “compliance with any other provision of this Constitution, the United States Constitution, state or federal law, or court order.” Ark. Const. art. 14, § 3(c)(2) (Repl. 2019).

millage rate, then the tax will continue to be collected at the rate approved in the last preceding school election.⁶

The foregoing shows that taxpayers in an area where a school district has been dissolved and either annexed to or consolidated with another school district continue to pay the school property tax at the rate that was in effect when the school district was dissolved until a new rate is approved by the voters of the newly expanded district.

Question 2: Does it violate any state or federal law to require a resident of one county to pay a school millage when the millage goes to a school district located in another county?

No. School-district boundaries often cross county lines.⁷ Moreover, state law is firm that school districts are distinct taxing units.⁸ And this remains the case when school districts cross county lines.

These points were highlighted clearly in *Frank v. Barker*.⁹ *Frank* involved the Fountain Lake School District, a district that includes parts of Saline and Garland counties,¹⁰ and a property-tax rollback required by Amendment 59.¹¹ The relevant facts in *Frank* are as follows: A Saline County property reappraisal resulted in an increase in property-tax revenues for the school district of more than 10 percent,

⁶ *Id.* at § 26-80-111(b)(1). This office has acknowledged that this can lead to situations wherein taxpayers within the same school district pay different rates of tax until a new, unified millage rate is approved for the district. See Op. Att’y Gen. 2004-044.

⁷ Arkansas school districts that have cross-county boundaries include Alpena School District, which encompasses portions of Boone, Newton, and Carroll counties; Ashdown School District (Little River and Sevier); Cossatot River School District (Polk, Howard, Sevier); County Line School District (Franklin and Logan); Harmony Grove School District (Dallas, Ouachita, and Clark); and Palestine-Wheatley School District (St. Francis and Monroe). To find a list of Arkansas school districts and their boundary lines, see <https://www.zipdatamaps.com/school-district-list/state/list-of-all-schools-districts-in-arkansas>.

⁸ See, e.g., Ark. Const. art. 14, § 3(c)(1), Ark. Code Ann. § 26-80-102(a)(1) (“[S]chool districts are authorized to levy ... an annual ad valorem property tax....”).

⁹ 341 Ark. 577, 20 S.W.3d 293 (2000).

¹⁰ *Id.* at 579, 20 S.W.3d at 294.

¹¹ Codified at Ark. Const. art 16, §§ 5, 14-16.

which is prohibited by Amendment 59. School district taxpayers living in Saline County filed suit against, *inter alia*, the school district to enforce the required rollback. A taxpayer of the school district who lived in Garland County, which had not undergone a countywide reappraisal similar to Saline County, sought to intervene, but was denied by the trial court.

In the portion of its opinion supporting the intervenor, the Arkansas Supreme Court wrote that the plain language of Amendment 59 made it clear that a “taxing unit,” as it is used in the amendment, referred to the Fountain Lake School District.¹² The Court noted that long before Amendment 59 was adopted, “school districts were formed that included parts of more than one county.”¹³ The Court found it instructive that “the drafters of Amendment 59 did not choose to differentiate between a school district located in only one county from a school district spanning two or more counties. The amendment ... without exception ... referred to all school districts, including those in more than one county, as ‘taxing units.’”¹⁴ The Court ultimately concluded that the Fountain Lake School District included all taxpayers in the district, whether they resided in Saline County or Garland County.¹⁵

In my opinion, the above analysis makes the answer to your question clear. School districts may and often do cross county lines. Given that school districts are distinct taxing units apart from counties or cities, it does not violate state law

¹² See *Frank*, 341 Ark. at 582, 20 S.W.3d at 296. Amendment 59 provides, in pertinent part: “Whenever a countywide reappraisal or reassessment of property subject to ad valorem taxes ... shall result in an increase in the aggregate value of taxable real and personal property in any taxing unit in this State of ten percent (10%) or more over the previous year the rate of *city or town, county, school district, and community college district* taxes levied against the taxable real and personal property of *each such taxing unit* shall, upon completion of such reappraisal or reassessment, be adjusted or rolled back, by the governing body of the taxing unit, for the year for which levied as provided below.” Ark. Const. art. 16, § 14(a) (emphases added).

¹³ *Frank*, 341 Ark. at 582, 20 S.W.3d at 296.

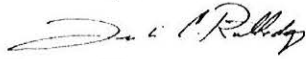
¹⁴ *Id.*

¹⁵ *Id.* at 583, 20 S.W.3d at 297. The Court finally noted that “in order to determine whether a rollback is required in the ‘taxing unit’ [under Amendment 59,] it is necessary to include ‘*all others interested*, to protect the inhabitants thereof against the enforcement of any illegal exactions whatever.’ The phrase ‘all others interested’ certainly includes all taxpayers within the school district which is the ‘taxing unit.’” *Id.* (emphasis in original).

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for residents of one county to pay taxes for their school district that may be located or headquartered in another county.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Rutledge", written in a cursive style.

LESLIE RUTLEDGE
Attorney General