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## **Recent Developments from the Attorney General's Office:**

**A survey of the latest Attorney General opinions, open  
records decisions, and open meetings guidance  
applicable to Texas schools.**

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FORMAL ATTORNEY GENERAL OPINIONS

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***Opinion No. KP-0069 re: Whether a school district board of trustees may post on the district website the personal financial statements of board members submitted pursuant to section 11.0461 of the Education Code.***<sup>1</sup>

Texas Education Code section 11.0641 requires the board of trustees of an independent school district situated in a county that is located on the international border and includes a municipality with a population of 600,000 to file a financial statement with the board of trustees and the commissioner's court. The question raised is whether the report can be posted on the district's website. Currently, this statute applies to only El Paso ISD.

The Attorney General determined that it is within a board of trustees' discretion, acting as a governmental body, to post personal financial statements of board members on the school district website because personal financial statements that are required to be filed under Texas Government Code 572, subchapter B are public records.<sup>2</sup> The OAG included a warning that any information contained in the report that is not subject to open records must be withheld.

In addition, because the Board "may only act by majority vote of the members present at a meeting,"<sup>3</sup> section 11.0641 does not provide an individual trustee the right to unilaterally limit disclosure of a personal financial statement should a majority of the board require the posting of the statement over an individual trustee's objections.

***Opinion No. KP-0072 re: Whether a school district, municipality, or county may reduce or repeal the local option homestead exemption from the amount that was adopted for the 2014 tax year through the 2019 tax year.***<sup>4</sup>

Prior to the enactment of S.J.R. 1 in 2015, the homestead exemption for purposes of school district taxation was capped at \$15,000. S.J.R. 1 amended the Texas Constitution to increase the state homestead exemption to \$25,000.<sup>5</sup> It also provided the Legislature the authority to prohibit governmental entities from

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<sup>1</sup> <https://texasattorneygeneral.gov/opinions/opinions/51paxton/op/2016/kp0069.pdf>

<sup>2</sup> TEX. GOV'T CODE § 572.032.

<sup>3</sup> TEX. EDUC. CODE § 11.051(a-1).

<sup>4</sup> <https://texasattorneygeneral.gov/opinions/opinions/51paxton/op/2016/kp0072.pdf>.

<sup>5</sup> TEX. CONST. ART. VIII, § 1(c).

reducing or repealing any Local Option Homestead Exemption previously adopted.<sup>6</sup> S.B. 1, the tool to implement the constitutional amendment, was signed into law on May 29, 2015, and prohibited governmental entities that adopted a LOHE for the 2014 tax year from reducing or repealing the exemption.<sup>7</sup> This prohibition is set to expire December 31, 2019.

S.B. 1 went into effect on November 3, 2015 when Texas voters approved the constitutional amendments in S.J.R. 1. Between the approval of S.B. 1 by the Legislature on May 29, 2015 and S.J.R. 1 on November 3, 2015, approximately twenty school districts repealed or reduced their LOHE. Therefore, the Attorney General was asked to determine if the constitutional amendment applied retroactively to the language in S.B. 1 prohibiting governmental entities from reducing or repealing a LOHE for the 2015 tax year. Local governments argued that any change made prior to the approval of S.J.R. 1 on November 3, 2015, should be enforceable; however, the Attorney General disagreed.

The OAG found “the statute’s plain language clearly indicates that the Legislature intended to set a floor for the local option exemption rates at the level they were in 2014 until end of the 2019 tax year. . . . Accordingly, any repeal of or reduction in the amount of a local option homestead exemption by a school district, municipality, or county in 2015 would have no effect under subsection 11.13(n-1)’s express terms.”

In determining if the statute included unconstitutional retroactivity, the Attorney General considered 1) the nature and strength of the public interest served by the statute, 2) the nature of the prior right impaired by the statute, and finally 3) the extent of the impairment. With regard to the public interest served, the OAG opined that the reduction in taxation would allow for economic growth and best served the elderly or disabled stating, “the legislative purpose in enacting S.B. 1 is to address a concern important to all Texas homeowners (and to a degree Texas renters) and to improve the state’s overall economy.” Thus, the Attorney General concluded a court would likely find that “addressing property tax relief for Texas citizens to improve the state’s economy is a strong public purpose and serves a compelling public interest.”

In addressing the nature of impairment to a prior right, the Attorney General pronounced that it is unclear if the taxing authorities had a concrete expectation

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<sup>6</sup> TEX. CONST. ART. VIII, § 1(d).

<sup>7</sup> TEX. TAX CODE § 11.13(n-1).

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## Title search: Recent Developments from the Attorney General's Office

First appeared as part of the conference materials for the  
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