



Educational Service District 113

August 25, 2007

David Stolier
1125 Washington St SE
PO Box 40100
Olympia, WA 98504-0100

Dear David,

I am writing in regards to perhaps the final conundrum emanating from the Vader School District dissolution and resulting annexation to Castle Rock School District. Attempts to interpret and implement together statutes governing the ESD 113 Regional Committee and those governing the responsibilities of the County Assessor and County Treasurer are presenting new troubling questions.

ESD 113 is seeking a written Attorney General Opinion to clarify for the ESD 113 Regional Committee, Cowlitz and Lewis County officials, and the Castle Rock School District how existing statutes control the extension of Castle Rock debt service levy and maintenance and operation levy requests for 2008 collection.

Issue

The Regional Committee pursuant to Chapter 29A.315 RCW directed that Castle Rock levy collections assessed upon the former Vader territory beginning January 1, 2008. The counties raised the concern that statutory guidance in Title 84 RCW implies the beginning date of such a levy assessment is one year later on January 1, 2009.

Discussion

This question was discussed at meeting of Department of Revenue, County, ESD, and school officials on Thursday August 23. That work group requested that ESD 113 obtain a written opinion from your office.

Chapter 28A.315 clearly establishes the role and powers of the Regional Committee including the dissolution of a school district, and the equitable adjustment of assets and liabilities of any school districts changed under the chapter. The March 2007 Vader levy election was communicated to the public as a choice between a Vader levy and the levy of a neighboring district, in this case Castle Rock. The Chapter 28A.315 RCW highlighted discussion document used in our meeting is attached.

Title 84 RCW does not reference the term "dissolution" which is used with Vader. Instead, the term annexation is used with the implication that an annexation is voluntary, unlike the annexation of Vader territory to Castle Rock. However, RCW 84.09.037 provides OSPI the authority to order that the Vader territory be subject to a levy assessment.

RCW 84.09.037 School district boundary changes.

Each school district affected by a transfer of territory from one school district to another school district under chapter [28A.315](#) RCW shall retain its preexisting boundaries for the purpose of the collection of excess tax levies authorized under RCW [84.52.053](#) before the effective date of the transfer, for such tax collection years and for such excess tax levies as the superintendent of public instruction may approve and order that the transferred territory shall either be subject to or relieved of such excess levies, as the case may be. For the purpose of all other excess tax levies previously authorized under chapter [84.52](#) RCW and all excess tax levies authorized under RCW [84.52.053](#) subsequent to the effective date of a transfer of territory, the boundaries of the affected school districts shall be modified to recognize the transfer of territory subject to RCW [84.09.030](#).

[2006 c 263 § 615; 1990 c 33 § 597; 1987 c 100 § 3.]

It would be inequitable to require the Castle Rock citizens to bear the load for all the new Vader students while allowing the Vader communities to avoid taxation for 2008. It may even be confusing and misleading for Vader communities who were told they would be taxed, to not see any increase in taxes before 2009.

The work group was concerned that the right thing be done in setting this precedent because there may be other districts which will eventually be dissolved.

Resolution

David, the counties requested that they receive written direction by October 15 in order to meet their processing timelines.

I will also be requesting a letter from OSPI, pursuant to RCW 84.09.037, asking the counties to fulfill the orders of the ESD 113 Regional Committee.

If you have any questions please contact me at 360.464.6752 or jmolohon@esd113.k12.wa.us.

Sincerely



John Molohon
Assistant Superintendent, Fiscal Services

Cc: Anne Shaw, Assistant Attorney General
Gordon Beck, Office of Superintendent of Public Instruction
Judy Ainslie, Cowlitz County Treasurer
Dianne Dorey, Lewis County Assessor
Rick Wilde, Superintendent Castle Rock School District No. 401
Tim Merlino, Educational Service District 112
Jan Jutte, Office of State Auditor
Diann Locke, Department of Revenue

Relevant RCW 28A references for Vader annexation into Castle Rock.

RCW 28A.315.005

Governance structure.

(1) Under the constitutional framework and the laws of the state of Washington, the governance structure for the state's public common school system is comprised of the following bodies: The legislature, the governor, the superintendent of public instruction, the state board of education, the educational service district boards of directors, and local school district boards of directors. The respective policy and administrative roles of each body are determined by the state Constitution and statutes.

(2) Local school districts are political subdivisions of the state and the organization of such districts, including the powers, duties, and boundaries thereof, may be altered or abolished by laws of the state of Washington.

[1999 c 315 § 1.]

RCW 28A.315.015

Purpose — Policy.

(1) It is the purpose of this chapter to:

(a) Incorporate into a single, comprehensive, school district organization law all essential provisions governing:

(i) The formation and establishment of new school districts;

(ii) The alteration of the boundaries of existing districts; and

(iii) The adjustment of the assets and liabilities of school districts when changes are made under this chapter; and

(b) Establish methods and procedures whereby changes in the school district system may be brought about by the people concerned and affected.

RCW 28A.315.045

Reorganization.

(1) A new school district may be formed comprising contiguous territory lying in either a single county or in two or more counties. The new district may comprise:

(a) Two or more whole school districts;

(b) Parts of two or more school districts; and/or

(c) Territory that is not a part of any school district if such territory is contiguous to the district to which it is transferred.

(2) The boundaries of existing school districts may be altered:

(a) By the transfer of territory from one district to another district;

(b) By the consolidation of one or more school districts with one or more school districts; or

(c) By the dissolution and annexation to a district of a part or all of one or more other districts or of territory that is not a part of any school district: PROVIDED, That such territory shall be contiguous to the district to which it is transferred or annexed.

(3) Territory may be transferred or annexed to or consolidated with an existing school district without regard to county boundaries.

[1999 c 315 § 201.]

RCW 28A.315.065

District boundary changes — Submission to county auditor.

(1) Any district boundary changes shall be submitted to the county auditor by the educational service district superintendent within thirty days after the changes have been approved in accordance with this chapter. The superintendent shall submit both legal descriptions and maps.

(2) Any boundary changes submitted to the county auditor after the fourth Monday in June of odd-numbered years does not take effect until the following calendar year.

[1999 c 315 § 204.]

RCW 28A.315.095

Regional committees — Powers and duties.

The powers and duties of each regional committee are to:

(1) Hear and approve or disapprove proposals for changes in the organization and extent of school districts in the educational service districts when a hearing on a proposal has been requested under RCW [28A.315.195](#);

(2) Act on notices and proposals from the educational service district under RCW [28A.315.225](#);

(3) Make an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness and excess tax levies as otherwise authorized under this section, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts;

(4) Make an equitable adjustment of the bonded indebtedness outstanding against any of the old and new districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected;

(5) Provide that territory transferred from a school district by a change in the organization and extent of school districts shall either remain subject to, or be relieved of, any one or more excess tax levies that are authorized for the school district under RCW [84.52.053](#) before the effective date of the transfer of territory from the school district;

(6) Provide that territory transferred to a school district by a change in the organization and extent of school districts shall either be made subject to, or be relieved of, any one or more excess tax levies that are authorized for the school district under RCW [84.52.053](#) before the effective date of the transfer of territory to the school district;

(7) Establish the date by which a committee-approved transfer of territory shall take effect;

(8) Hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new school district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in *RCW [28A.315.290](#) or [28A.315.320](#) prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in this chapter. Three members of the regional committee or two members of the committee and the educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The regional committee shall cause notice to be given, at least ten days prior to the date appointed for any such hearing, in one or more newspapers of general circulation within the geographical boundaries of the school districts affected by the proposed change or adjustment. In addition notice may be given by radio and television, or either thereof, when in the committee's judgment the public interest will be served thereby; and

RCW 28A.315.255

Adjustment of indebtedness.

(1) The fact of the issuance of bonds by a school district, heretofore or hereafter, does not prevent changes in the organization and extent of school districts, regardless of whether or not such bonds or any part thereof are outstanding at the time of change.

(2) In case of any change:

(a) The bonded indebtedness outstanding against any school district involved in or affected by such change shall be adjusted equitably among the old school districts and the new district or districts, if any, involved or affected; and

(b) The property and other assets and the liabilities other than bonded indebtedness of any school district involved in or affected by any such change shall also be adjusted in the manner and to the effect provided for in this section, except if all the territory of an old school district is included in a single new district or is annexed to a single existing district, in which event the title to the property and other assets and the liabilities other than bonded indebtedness of the old district vests in and becomes the assets and liabilities of the new district or of the existing district, as applicable.

[1999 c 315 § 702.]

RCW 28A.315.265

Adjustment of bonded indebtedness — Order — Special elections.

If adjustments of bonded indebtedness are made between or among school districts in connection with the alteration of the boundaries of the school districts under this chapter, the order of the educational service district superintendent establishing the terms of adjustment of bonded indebtedness shall provide and specify:

(1) In every case where bonded indebtedness is transferred from one school district to another school district:

(a) That such bonded indebtedness is assumed by the school district to which it is transferred;

(b) That thereafter such bonded indebtedness shall be the obligation of the school district to which it is transferred;

(c) That, if the terms of adjustment so provide, any bonded indebtedness thereafter incurred by such transferee school district through the sale of bonds authorized before the date its boundaries were altered shall be the obligation of such school district including the territory added thereto; and

(d) That taxes shall be levied thereafter against the taxable property located within such school district as it is constituted after its boundaries were altered, the taxes to be levied at the times and in the amounts required to pay the principal of and the interest on the bonded indebtedness assumed or incurred, as the same become due and payable.

(2) In computing the debt limitation of any school district from which or to which bonded indebtedness has been transferred, the amount of transferred bonded indebtedness at any time outstanding:

(a) Shall be an offset against and deducted from the total bonded indebtedness, if any, of the school district from which the bonded indebtedness was transferred; and

(b) Shall be deemed to be bonded indebtedness solely of the transferee school district that assumed the indebtedness.

(3) In every case where adjustments of bonded indebtedness do not provide for transfer of bonded indebtedness from one school district to another school district:

(a) That the existing bonded indebtedness of each school district, the boundaries of which are altered and any bonded indebtedness incurred by each such school district through the sale of bonds authorized before the date its boundaries were altered is the obligation of the school district in its reduced or enlarged form, as the case may be; and

(b) That taxes shall be levied thereafter against the taxable property located within each such school district in its reduced or enlarged form, as the case may be, at the times and in the amounts required to pay the principal of and interest on such bonded indebtedness as the same become due and payable.

(4) If a change in school district organization approved by the regional committee concerns a proposal to form a new school district or a proposal for adjustment of bonded indebtedness involving an established school district and one or more former school districts now included therein pursuant to a vote of the people concerned, a special

election of the voters residing within the territory of the proposed new district, or of the established district involved in a proposal for adjustment of bonded indebtedness as the case may be, shall be held for the purpose of affording those voters an opportunity to approve or reject such proposals as concern or affect them.

(5) In a case involving both the question of the formation of a new school district and the question of adjustment of bonded indebtedness, the questions may be submitted to the voters either in the form of a single proposition or as separate propositions, whichever seems expedient to the educational service district superintendent. When the regional committee has passed appropriate resolutions for the questions to be submitted and the educational service district superintendent has given notice thereof to the county auditor, the special election shall be called and conducted, and the returns canvassed as in regular school district elections.

[1999 c 315 § 703.]

RCW 28A.315.305

School district organizational changes — Corporate existence — Payment of bonded indebtedness — Levy authority.

(1) Each school district involved in or affected by any change made in the organization and extent of school districts under this chapter retains its corporate existence insofar as is necessary for the purpose, until the bonded indebtedness outstanding against it on and after the effective date of the change has been paid in full. This section may not be construed to prevent, after the effective date of the change, such adjustments of bonded indebtedness as are provided for in this chapter.

(2) The county legislative authority shall provide, by appropriate levies on the taxable property of each school district, for the payment of the bonded indebtedness outstanding against it after any of the changes or adjustments under this chapter have been effected.

(3) In case any such changes or adjustments involve a joint school district, the tax levy for the payment of any bonded indebtedness outstanding against the joint district, after the changes or adjustments are effected, shall be made and the proceeds thereof shall be transmitted, credited, and paid out in conformity with the provisions of law applicable to the payment of the bonded indebtedness of joint school districts.

[1999 c 315 § 707.]