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Opinion No. 12-08

Education Improvement Act - Number of School Board Members

QUESTION

Does the Education Improvement Act of 1992 ("EIA") supersede the provisions of Chapter 44 of the 1973 Tennessee Private Acts, which sets the number of members for the Maury County Board of Education at ten members, with one member elected by the Quarterly County Court from each magisterial district?

OPINION

Yes. Tenn. Code Ann. § 49-2-201(a)(1) of the EIA generally limits the number of Maury County School Board members to the number authorized by general law or private act on January 1, 1992, or the number actually serving on January 1, 1993, unless the General Assembly by subsequent private act authorizes a different number that may be no less than three nor more than eleven. This statute also provides for popular election by the people of these School Board members.

ANALYSIS

Chapter 44 of the 1973 Tennessee Private Acts ("Chapter 44") states in relevant part as follows:

> The county board of education of Maury County shall be composed of ten (10) members, with one (1) member to be elected by the Quarterly County Court of Maury County from each magisterial district.

1973 Tenn. Priv. Acts 44, § 1.

Tenn. Code Ann. § 49-2-201(a)(1)[1] subsequently established, for most Tennessee counties, the maximum number of school board members in each county, the mechanism by which that number may be adjusted and how such members are selected. The statute provides:

[1] This statute was originally enacted as part of the EIA. 1992 Tenn. Pub. Acts. 535, § 39. The statute has been amended several times since its original enactment. See 2002 Tenn. Pub. Acts 496, § 1; 1998 Tenn. Pub. Acts 620, § 1; 1995 Tenn. Pub. Acts 435, § 1; 1995 Tenn. Pub. Acts 40, § 2. The EIA is designed to create a uniform system of governance of county, municipal, and special school districts. See Op. Tenn. Att'y Gen. 97-054 (Apr. 23, 1997).

> Notwithstanding any other law to the contrary, there shall be a board of education elected by the people. Except in counties with a county charter or metropolitan government charter, the board shall consist of no more members than the number of members authorized by general law or private act for boards of education in existence on January 1, 1992, or the number of members actually serving on a board on January 1, 1993, except during transition periods following district reapportionment. In addition to the membership existing on boards as of January 1, 1992 or January 1, 1993, the general assembly may authorize by private act any number of school board members that is no less than three (3) nor more than eleven (11).

Tenn. Code Ann. § 49-2-201(a)(1).

Maury County does not have a county charter or metropolitan government charter. Accordingly, the maximum and minimum number of school board members for the Maury County School Board is governed by Tenn. Code Ann. § 49-2-201(a)(1). As provided by that statute, the maximum number of members of the Maury County School Board is set by the terms of Private Act 44 (if that private act was still controlling law as of January 1, 1992), or by the number of members actually serving on the Maury County School Board as of January 1, 1993. Furthermore, under Tenn. Code Ann. § 49-2-201(a)(1), the Legislature can change the number of Maury County School Board members in the future by private act to any number between three and eleven, inclusive. *See State ex rel. Strader v. Word*, 508 S.W.2d 539, 547 (Tenn. 1974) (acts are superseded as far as necessary to give effect to a general statutory plan of statewide applicability).

Tenn. Code Ann. § 49-2-201(a)(1) also states, "[n]otwithstanding any other law to the contrary, there shall be a board of education elected by the people." Thus, Tenn. Code Ann. § 49-2-201(a)(1) superseded the provisions in Private Act 44 allowing the Quarterly County Court to elect members of the Maury County School Board. To the extent Private Act 44 continues to require representation by district on the Maury County School Board, that requirement does not appear to have been superseded by the language of Tenn. Code Ann. § 49-2-201(a)(1).

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