



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable H. A. Hodges
County Auditor, Williamson County
Georgetown, Texas

Dear Sir:

Opinion No. 0-5488

Re: Appointment of successor
to County Superintendent
of Schools when vacancy occurs.

We have your letter dated July 31, 1943, requesting the opinion of this department on the above subject, which letter reads as follows:

"The County School Superintendent of Williamson County has been called to the Navy, thus a vacancy in this office, therefore I desire an opinion relative to the following-

"Is it within the legal authority of the County Board of Education to appoint a successor to the County School Superintendent when a vacancy occurs, or is it the legal duty of the Commissioners Court?

"If it is the duty of the Commissioners Court to make such an appointment may it be done at a Special Session of the Court, or does the law require that it be done at a Regular Session?

"I shall be pleased to have your opinion at your very earliest convenience."

Article 2355 Revised Civil Statutes of Texas, provides:

"The Court shall have power to fill vacancies in the office of: County Judge, County Clerk, Sheriff,

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County Attorney, County Treasurer, County Surveyor, County Hide Inspector, Assessor of Taxes, Collector of Taxes, Justices of the Peace, Constables, and County Superintendent of Public Instruction. Such vacancies shall be filled by a majority vote of the members of said Court, present and voting, and the person chosen shall hold office until the next general election. As amended Acts 1927, 40th Leg., 1st C. S., p. 248, ch. 90 § 1."

If there is a vacancy in the office of County School Superintendent of Williamson County the vacancy must be filled by a majority vote of the Commissioners Court of said County present and voting, and the person chosen to fill the vacancy shall hold office until the next general election. Since the quoted statute does not require such appointment to be made at a regular term of said Court, the appointment may be made at a special or called session thereof, and any three members of said court, including the County Judge, will constitute a quorum for the transaction of such business. Article 2343 Revised Civil Statutes of Texas.

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED AUG 4 1943

Spencer Sullivan

FIRST ASSISTANT ATTORNEY GENERAL

EPP:ncd

ok
C.C.R.

By

E. P. Price

E. P. Price
Assistant

APPROVED
COMMISSION
COMMITTEE
BY *BWB*
CHAIRMAN