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Subject: Legal Analysis Supporting Voter Enfranchisement in School District Detachment under RQ-0580-KP and Texas Education Code §§ 13.101-13.105

## **I. INTRODUCTION**

This legal brief is submitted in response to the pending Attorney General Opinion Request RQ-0580-KP. The fundamental question at issue is whether the people of Texas have the right to vote on the matter in question. The request for an Attorney General opinion concerns the interpretation of statutory provisions governing public participation in decision-making. As outlined below, Texas law, the Texas Constitution, and established legal precedent strongly support the right of the electorate to directly participate in decision-making through voting where legally permissible.

## **II. LEGAL FRAMEWORK**

### **A. The Texas Constitution and the Right to Vote**

The Texas Constitution enshrines the principle of popular sovereignty. Article I, Section 2 states: "All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit." This provision establishes that government action should be accountable to the people and that, where authorized, the right to vote should be protected.

Article VI of the Texas Constitution further affirms voting as a fundamental right by detailing the qualifications and mechanisms by which Texans exercise their electoral power. Courts have consistently held that laws and interpretations that unnecessarily infringe upon the electorate's ability to participate in governance must be narrowly construed and justified by compelling state interests.

## **B. Interpretation of RQ-0580-KP**

RQ-0580-KP seeks an opinion regarding whether statutory provisions allow or restrict voter participation in a specific matter. Under Texas law, Attorney General opinions must be based on existing statutes and legislative intent rather than creating new restrictions. If the relevant statute does not expressly prohibit a public vote, the Attorney General should interpret it in a manner that favors voter participation.

## **C. Statutory Analysis of Election Requirements**

### ***Texas Education Code and Election Mandates***

A central issue in the interpretation of RQ-0580-KP is whether the initiation of a school district detachment process under Texas Education Code §§ 13.101-13.105 requires an election or can be unilaterally determined by a resolution of the board of trustees. The term "initiate" in § 13.103 must be examined within the statutory framework to determine legislative intent.

Texas courts have historically interpreted ambiguous statutory language in a manner that favors democratic engagement. In examining legislative history, prior codifications of Chapter 13 suggest that elections have been a consistent requirement for school district detachment. The absence of explicit statutory language eliminating the election requirement implies legislative intent to preserve it.

### ***Prior Attorney General Opinions on Voter Participation***

In Tex. Att'y Gen. Op. GA-0773 (2010), the Attorney General emphasized that when a statute is silent or ambiguous regarding electoral participation, courts and state agencies should construe the provision in a manner that preserves democratic engagement. Similarly, in Tex. Att'y Gen. Op. JM-1149 (1990), the Attorney General clarified that statutory silence should not be presumed to limit fundamental democratic processes unless explicitly stated.

## **D. Attorney General Opinions and Their Limitations**

As noted in the Attorney General's own guidance, opinions serve to interpret existing law rather than to create new law or impose restrictions beyond legislative intent. Given this limitation, any opinion that would restrict the right of the people to vote should be based on clear statutory language explicitly prohibiting such participation. In the absence of such statutory prohibition, the presumption must favor voter enfranchisement.

### **III. LEGAL PRECEDENT SUPPORTING VOTER ENFRANCHISEMENT**

#### **A. Texas Case Law Favoring Elections**

Texas courts have repeatedly ruled in favor of broad public participation in governance. In *Blum v. Lanier*, 997 S.W.2d 259 (Tex. 1999), the Texas Supreme Court recognized that statutes affecting voting rights must be interpreted in a manner that favors enfranchisement whenever reasonable. Similarly, in *City of El Paso v. Tom Brown Ministries*, 385 S.W.3d 589 (Tex. App.—El Paso 2012, reh'g denied), the court reaffirmed that election laws should be construed liberally in favor of allowing public participation.

#### **B. U.S. Constitutional Protection of Voting Rights**

Additionally, the U.S. Supreme Court has consistently held that voting is a fundamental right under the Equal Protection Clause of the Fourteenth Amendment. In *Reynolds v. Sims*, 377 U.S. 533 (1964), the Court emphasized that the right to vote is "preservative of all rights" and must be safeguarded against unnecessary restrictions.

### **IV. APPLICATION TO RQ-0580-KP**

The statutory language in § 13.103, when read alongside §§ 13.104-13.105, strongly suggests that an election is a necessary component of the school district detachment process. The word "initiate" does not, in itself, create a legal mechanism for avoiding the democratic process.

Furthermore, public policy considerations favor requiring a vote on school district detachment, as it significantly impacts taxpayers, students, and educational resources. Without voter input, there is a risk of arbitrary or politically motivated boundary changes that do not reflect the will of the affected communities.

### **V. CONCLUSION**

For the reasons stated above, we respectfully urge the Office of the Attorney General to issue an opinion that affirms the right of the people to vote on the issue in question. The interpretation

of RQ-0580-KP must align with existing legal principles that favor democratic participation. Any limitation on voter engagement must be supported by explicit statutory language rather than inferred restrictions. The Texas Constitution, state statutes, and legal precedent all favor broad voter enfranchisement, and any deviation from this principle would undermine the fundamental democratic values upon which Texas law is founded.

Warm regards,

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