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STATE of TEXAS  
HOUSE of REPRESENTATIVES

**JOE DESHOTEL**

Texas State Representative  
22<sup>nd</sup> Legislative District

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RQ-1091-GA

September 28, 2012

The Honorable Greg Abbott  
Texas Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

**Re: Beaumont Independent School District Trustee Election Opinion Request**

Dear General Abbott:

I respectfully request your opinion on an issue regarding election of trustees for the Beaumont Independent School District (BISD).

**Background**

Currently, the Beaumont Independent School District is governed by a Board of Trustees elected from seven single-member districts.

Since May 2009, Beaumont ISD has conducted a joint election with the City of Beaumont in each odd-numbered year, filling seven (7) single-member Trustee Districts, with each Trustee elected for staggered four-year terms. Under the current election scheme, four-year terms for Trustee Districts 4, 6, and 7 will expire in May, 2013; four-year terms for Trustee Districts 1, 2, 3 and 5 will expire in May, 2015.

In May 2011, BISD voters approved a proposition changing the Trustee election scheme from seven (7) single-member Districts to five (5) single-member Districts and two (2) at-large Districts. A new 5/2 election scheme was approved by the BISD board on May 31, 2012, to be effective in the May 2013 election.

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Under the Board-approved 5/2 plan, Trustees currently serving in Districts 1 and 2 will both reside in redrawn District 2. A transition plan that will move the District from seven (7) single members to five (5) single and two (2) at-large members being considered by the Board is the subject of this opinion request.

**5/2 Transition Plan:**

- Trustees in current Districts 1 and 2 both reside in redrawing District 2. Both have terms that end in 2015.
- The Board will conduct a drawing to determine which of the Trustees currently serving District 1 or 2 will complete his or her four-year term in the redrawn District 2. The unsuccessful Trustee currently representing District 1 or 2 will be appointed to serve as an at-large Trustee for four years, beginning with the 2013 election.
- Current Trustees residing in redrawn Districts 4 and 5 have terms that expire in May 2013.
- Redrawn Districts 4 and 5 will be filled for four years each at the May 2013 election, together with the remaining at-large position.
- Redrawn District 2 will be filled together with redrawn Districts 1 and 3, at the May, 2015 Trustee election.
- Both at-large districts will remain together on the ballot beginning in 2017.
- Rotation shall continue in cycles of four-year terms as follows:
  - Positions 4 and 5: 2013, 2017, 2021, 2025, and in a like manner thereafter.
  - At-Large Positions: 2013, 2017, 2021, 2025, and in a like manner thereafter.
  - Positions 1, 2 & 3: 2015, 2019, 2023, 2027, and in a like manner thereafter.
- To be elected to an at-large position, a candidate must receive a plurality of votes, more votes than any other candidate, except as otherwise provided by law. (Election Code 2.001)
- The rationale for this transition would be to prevent the shortening of a duly elected Trustee's term while preventing retrogression by holding election on both at-large positions concurrently during the same election cycle.

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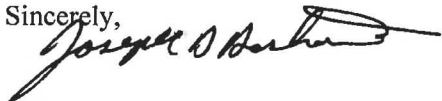
**Question Presented**

May the Board of Trustees appoint one of the current trustees in Position 1 or 2 to one of the 4-year at-large positions to begin in 2013? The Secretary of State's Election Division and the Texas Association of School Board's Legal Section have both indicated that the board of trustees may not shorten a trustee's term and that there is no statutory prohibition on appointing a member in District 1 or 2 to the four-year at-large position as a transition from single-member districts to a 5 single and 2 at-large system.

The District's attorney has advised that there is no statutory prohibition to a 5/2 transition plan as proposed. Two of the District's Board members assert that under Texas Education Code § 11.059(a) the transition plan is illegal. The District's attorney asserts that §§ 11.052 and 11.053 apply to an election scheme change from an at-large system to single members. This is a circumstance where the District's 7 single-member plan is changed to a 5 single member and 2 at-large election scheme. Beaumont ISD, along with several other school districts, extended terms of trustees when transitioning from three-year to four-year terms.

Thank you for your consideration of this matter.

Sincerely,



Joe Deshotel  
State Representative  
22nd Legislative District

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