

Webb County School Lands **DISTRIBUTION METHODS**

Scholastic Basis, Average Daily Attendance,
and Issues Related to Same

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Background

- In 2006, Webb County, United ISD, Laredo ISD, and Webb Consolidated ISD entered into an agreement setting forth the terms and conditions for the disbursement of proceeds and revenues generated from the “Webb County School Lands.”
- The Webb County School Lands are areas of real property entrusted to Webb County under **Article 7, Section 6 of the Texas Constitution.**
- Webb County holds these lands in trust for the benefit of Webb County’s public schools.

Article 7, Section 6b of the Texas Constitution

- Notwithstanding the provisions of Section 6, Article VII, Constitution of the State of Texas, **any county, acting through the commissioners court, may reduce the county permanent school fund of that county and may distribute the amount of the reduction to the independent and common school districts of the county on a per scholastic basis to be used solely for the purpose of reducing bonded indebtedness of those districts or for making permanent improvements.** The commissioners court shall, however, retain a sufficient amount of the corpus of the county permanent school fund to pay ad valorem taxes on school lands or royalty interests owned at the time of the distribution. Nothing in this Section affects financial aid to any school district by the state.

What Is “On a Per Scholastic Basis?”

- Per the Constitution, Webb County may distribute the reduction “on a per scholastic basis,” but **that phrase is not defined by the Constitution.**
- The Texas Attorney General has opined that “on a per scholastic basis” means on the basis of the number of persons residing in the school district eligible by age for free education. Tex. Att’y Gen. Op. H-47 (1973).
- **How is this “number of persons” determined?**

Determining the Scholastic Basis

- Prior to 1975, the legislature had provided for the taking of a **scholastic census** whereby the number of students of scholastic age residing in a particular school district could be determined, but in 1975 that provision **was repealed**.
- Therefore, it is incumbent on the Commissioners Court, as trustees of the fund, to **formulate a method to determine the scholastic population within a school district**.
- In formulating this method, the Commissioners Court is required to manifest the care, skill, prudence, and diligence of ordinary prudent persons engaged in similar business affairs. Tex. Att'y Gen. Op. JM-355 (1985).

Problems and Issues

- Without a scholastic census (repealed in 1975), it is extremely difficult—if not impossible—for districts to determine the “scholastic basis,” which must include eligible students between 5 and 21 years of age, undocumented students, homeless students, and home-schooled students, with 100% accuracy.
- Hence, Webb County and the County districts entered into the 2006 agreement, which set the scholastic basis on agreed-upon distribution percentages:
 - » **UISD - 51%**
 - » **LISD - 48%**
 - » **WCISD - 1%**

Modifications to MOU

- The original MOU had a ten-year term, hence it expired in November of 2016.
- Subsequent letter agreements have been executed between Webb County and the County school districts.
- The latest agreement, dated October 17, 2018, agreed to use the TEA's Summary of Finance from October 5, 2018, which reflected the refined **average daily attendance** for each of the County school districts for the 2017-18 school year.
- The distribution percentages originally set forth in the 2006 MOU have since been **modified by agreement**.

Proposed Solution

- Execute the 2019 MOU, which will continue to use the “Scholastic Basis” language originally agreed-to, and which will use the following percentages (based on total number students, but excluding transfers):
 - » **UISD: 65.2%**
 - » **LISD: 34.4%**
 - » **Webb CISD: 0.4%**