



**THE ATTORNEY GENERAL
OF TEXAS**

Gerald C. Mann
~~FRANK M. HODGSON~~
ATTORNEY GENERAL

AUSTIN 11, TEXAS

January 9, 1939

Hon. Pierre M. Stine
County Attorney
Clay County
Henrietta, Texas

Dear Sir:

Opinion No. 0-26
Re: Requirements of Petition,
Article 2786, RCS - Rate
of Interest

This will acknowledge receipt of your letter of January 2nd in which you ask the following question:

"In a petition for a bond election of an Independent School District, is it permissible to state that the bonds to be voted would bear interest 'not exceeding Five percent' or 'not exceeding Four percent'?"

I have viewed the authorities which you have cited and in the case of Brown vs. Truscott, Independent School District, it appears that the Court does not pass on the particular question there involved and as presented here. Prior to the time the case was viewed by the Commission of Appeals, Section A, in 1931, the Legislature had passed an act validating the particular district and its acts, which district was previously in operation.

It is interesting to note the old Article 2858 and Section 14a of the Act of 1921, Chapter 24 was involved in the Bloodworth vs. Rhea et al case 380 SW 1070 and at that time the old statute provided that the rate of interest must be stated, whereas, in our present statute, Article 2786, the words, "distinctly specify" are used in the place of the word, "state" as in the prior Act. Giving the words their ordinary meaning, I am constrained to advise you that the rate of interest should, in my opinion, be specifically stated in the petition required under Article 2786, and intended to be so read. However, since the Acts of 1929 and Article 2786 as amending the Act of 1921, Section 14a, Chapter 24, has been in effect, it appears this department has established a precedent for approving bonds issued under this Article where the petition reads such as you state in your question, other requirements and acts being regular, and it is not my purpose to overthrow any adopted construction of similar import

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placed upon our laws heretofore.

Yours respectfully

ATTORNEY GENERAL OF TEXAS

By /s/ Wm. J. R. King
Wm. J. R. King
Assistant

WK:AW:jrb

APPROVED:
/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS