



**THE ATTORNEY GENERAL  
OF TEXAS  
AUSTIN, TEXAS**

**Gerald C. Mann**  
**PRICE DANIEL**  
~~XXXXXXXXXX~~

**May 8, 1939**

**Honorable Jack Wiech  
County Attorney  
Cameron County  
Brownsville, Texas**

**Dear Sir:**

**Opinion Number 9-698  
Re: Whether or not the four year  
statute of limitation applies to  
actions or suits on bonds issued  
by water improvement district,  
water control and improvement  
district, drainage districts, etc.**

**Your request for an opinion on the above stated  
question has been received by this office.**

**In answer to your question we refer you to  
Article 5527 of the Revised Civil Statutes of 1925, Sec-  
tion 1, which provides that action for debt where the  
indebtedness is evidenced by or founded upon a contract  
in writing shall be commenced and prosecuted within four  
years after the cause of action shall have accrued and  
not afterwards. This prescribes a period within which  
suit must be filed and the courts have construed the same  
to mean that it must be especially plead in order to be  
availed of by the defendant. In the recent case of the  
City of Houston et al, v. Chapman, 123 S. W. (2) 652, the  
Commission of Appeals, Section A, speaking through Commis-  
sioner Hickman, held -- "Limitation being a defensive  
plea, the burden was upon the city to establish it." The  
courts of this State have consistently held that counties,  
political subdivisions and municipalities may avail them-  
selves of the statute of limitation as a defense to an  
action to obtain judgment against it upon its bonds or  
interest coupons more than four years past due. Rockwall  
County vs. Roberts County, 128 S. W. 369, City of Carthage  
vs. Burt, 111 S.W. 440, City of Tyler vs. L. L. Jester &  
Company, 78 S.W. 1058, City of Houston vs. Jankowski, 13  
S.W. 269.**

Honorable Jack Wiech, May 8, 1939, page 2

Unquestionably bonds and appurtenant coupons are written evidence of indebtedness within the meaning of Article 5527.

Although no water control and improvement district or any such district as suggested in your letter was a party to any of the cases cited above, the principles which apply to municipal corporations and other political subdivisions would no doubt apply to such district, and in the opinion of this department the four year statute of limitation is applicable to actions or suits on bonds issued by water improvement, water control and improvement, drainage districts and bonds and securities of all other political subdivisions within this State.

There are some "special" statutes applying to particular water control and improvement districts, such as Article 7880-147s, Section 8, Revised Civil Statutes of Texas, providing that under certain conditions the statutes of limitation shall not run. However, it is the opinion of this department that where there is no contrary statute governing the particular case, the period of limitation would begin to run in favor of the district on the due date of the bond or coupon in question.

Trusting that the foregoing satisfactorily answers your question, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

CEC-<sup>1</sup>/<sub>2</sub> mm  
APPROVED:

By /s/ Clarence E. Crowe  
Clarence E. Crowe  
Assistant

/s/ GERALD C. MANN  
ATTORNEY GENERAL OF TEXAS