



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

May 26, 1939

Honorable A. J. Bryan, Jr.
District Attorney, Hill County
Hillsboro, Texas

Dear Sir:

Opinion No. 0-786
Re: Authority of County Auditor to
pay out of the bond moneys bills
incurred in the construction of
drains, fills, bridges, etc.

In your letter of May 8th you state that same
time ago Hill County voted bonds for purposes set out in
the election order as follows:

" . . . for the purpose of constructing, main-
taining and operating macadamized, graveled, or
paved roads and turnpikes or in aid thereof, in
said county...\$50,000.00 for the purpose of con-
structing farm to market gravel and paved roads
and in cooperation with the Works Progress Ad-
ministration in such construction; . . . "

Your inquiry is:

"Is a county auditor authorized to approve
and pay out of the bond money bills incurred
in the construction of drains, fills, bridges,
culverts, etc., on that portion of the roads
which will not be graveled at this time as unit
one?"

Section 8 of the Hill County Special Road Law is:

"Said commissioners' court shall have entire
and exclusive charge, control, and management
of all matters pertaining or relating to the
laying out and constructing of the permanent
roads of the county or of such political sub-
division or defined district, for which the bond

issue was voted. The words 'road' or 'roads' as used herein shall be taken to include and embrace all rights of way, road-beds, ditches, drains, culverts, bridges and other accessories pertaining to, or in any way comprising, any part of said roads or highways being constructed under the provisions of this Act."

It would seem that Section 8 of the Hill County Road Law gives specific authority for the construction of road-beds, drains, ditches, culverts, bridges, and other accessories pertaining to, or in any way comprising, any part of said roads.

The portion of the election order which you quote in your letter gives to the Commissioners Court the right to expend the proceeds of the sales of bonds in constructing, maintaining, operating macadamized, graveled, or paved roads and turnpikes or in aid thereof. If this is not a direct express authority, it certainly implies the authority, to do all of the things incidental or reasonably necessary to carry into effect the power granted, that is, the building of the road system.

We therefore answer that the County Auditor is authorized to approve and pay out of the bond money, bills incurred in the construction of drains, fills, bridges, culverts, etc., on that portion of the roads which will not be graveled at this time as unit one. We do not understand that the fact that the roads may be constructed in units, rather than as a whole, has anything to do with the express or implied authority of the County Commissioners.

We call your attention to 34 Texas Jurisprudence page 444, under the head "Implied Powers," and to the authorities therein cited.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

A. S. Rollins
Assistant

ASR:PBP

APPROVED:

ATTORNEY GENERAL OF TEXAS