



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GERALD C. MAUN
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ATTORNEY GENERAL

Honorable Gus L. Kowalski
Acting County Attorney
Kenedy County
Kingsville, Texas

Dear Sir:

Opinion No. 0-937

Re: Whether a transfer of certain
funds from the Road and Bridge
Fund to the General Fund is
valid.

Your request for an opinion from this department, as contained
in your letter of June 5, reads as follows:

"The Commissioners' Court of Kenedy County, having
set the maximum levy prescribed by statute of .25¢ per
hundred dollars valuation for the General Fund, in an
emergency which was not foreseen at the time the levies
and assessments were made for the county, required the
sum of \$3600.00 with which to pay a claim against the
county. The amount of money in the General Fund was
insufficient for such purpose, but there was an excess
of money in the Road and Bridge Fund. The amount
needed was thereupon transferred from the Road and
Bridge to the General fund and the claim was paid.

"Some question has now arisen as to the validity
of such transfer. Will you kindly advise me of the
opinion of your department in the premises."

The above question involves the transfer of funds raised by
taxation as authorized in Article 9, Section 3, of the Constitution of
Texas. This constitutional restriction not only limits the amount of
such taxes that can be levied as provided therein, but also limits the
expenditure of same. It appears well settled that constitutional funds
may not be transferred from one fund to another; may not be diverted,
and the Commissioners' Court has no power to expend for one purpose tax
money raised ostensibly for another purpose. Article 1630, Revised Civil
Statutes, 1925, is not applicable in such case. *Carroll v. Williams*,
202 S.W. 504; *Ault v. Hill County*, 116 S.W. 359; *Sanders v. Looney*,
225 S. W. 280, 11 Tex. Jur. 609, Sec. 7a.

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It is, therefore, the opinion of this department that the Commissioners' Court is not authorized to transfer moneys from one constitutional fund into another. Such transfer, if made, would constitute a diversion of such funds and be invalid.

Trusting the above answers your question, we remain

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By Wm. J. R. King
Assistant

APPROVED JUN 21, 1939

/s/ Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE BY R.W.F., CHAIRMAN