



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN**

**GERALD C. MANN
ATTORNEY GENERAL**

Honorable Geo. H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. O-1653
Re: Construction of that part of
H. B. No. 181, Acts of the
Regular Session of the 48th
Legislature, Section 1, which
reads, "commencing with the
fiscal year beginning Septem-
ber 1, 1920."

We received your letter of November 5, 1939, re-
questing our opinion of the following questions:

1. What construction should be placed upon that part of H. B. No. 181, Acts of the Regular Session of the 48th Legislature, Section 1, which says, "commencing with the fiscal year beginning September 1, 1920."
2. What are the duties of the Comptroller with reference thereto?

This department, by refusing to approve bonds issued under the provisions of H. B. No. 181, supra, has held that the donation of taxes under said H. B. No. 181 to the city of Sinton is unconstitutional.

H. B. No. 55, Acts of the Third Called Session of the 36th Legislature reads, in part, as follows:

"An Act to aid the City of Aransas Pass in constructing and maintaining seawalls, breakwaters and shore protections in order to protect said city from calamitous overflows, by donating to it the eight-ninths (8/9) of ad valorem taxes collected on property and from persons in San Patricio County for a period of twenty years, providing a penalty for the misapplication of

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the moneys thus donated, and declaring an emergency.

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"Section 1. That for a period of twenty years, commencing with the fiscal year beginning September 1, 1920, there be and hereby are donated and granted by the State of Texas to the City of Aransas Pass, eight-ninths (8/9) of net amounts of the State ad valorem taxes collected upon the property and from persons in the county of San Patricio, including the rolling stock belonging to railroad companies which shall be ascertained and apportioned as now provided by law."

H. B. No. 181, Acts of the Regular Session of the 46th Legislature reads, in part, as follows:

"An Act to extend for an additional period of twenty (20) years the provisions of Chapter 22, Acts of the Third Called Session of the Thirty-sixth Legislature and to amend same in other particulars so as to read and be as provided for herein and to aid the City of Aransas Pass in constructing and maintaining seawalls, breakwaters, levees, channels, and other shore protections, including wharves forming part or parts of same in order to protect said City from calamitous overflows by donating to it the five-ninths of the ad valorem taxes collected on property and from persons in San Patricio County and to aid the City of Sinton, Texas, in constructing a drainage and canal system, including ditches, breakwaters, bridge structures, and other protection necessary to both storm and sanitary drainage by donating to it three-ninths of the ad valorem taxes collected on property and from persons in San Patricio County for a period ending August 31, 1960; and providing for a penalty for misapplication of moneys thus donated; providing a saving clause; and declaring an emergency.

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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"SECTION 1. That for the period commencing with the fiscal year beginning September 1, 1920, and ending August 31, 1960, there be, and hereby are, donated and granted by the State of Texas to the City of Aransas Pass, five-ninths of the net amounts of the State ad valorem taxes collected upon the property and from persons in the County of San Patricio, including the rolling stock belonging to railroad companies which shall be ascertained and apportioned as now provided by law, for the same period, there be, and hereby are, donated and granted by the State of Texas, to the City of Sinton, Texas, three-ninths of the net amounts of the State ad valorem taxes collected upon the property and from persons in the County of San Patricio, including the rolling stock belonging to railroad companies which shall be ascertained and apportioned as now provided by law, . . ."

H. B. No. 55, supra, provided for the grant and donation by the State of Texas to the City of Aransas Pass of eight-ninths (8/9) of the net amount of the State ad valorem taxes collected upon the property and from persons in the County of San Patricio, including the rolling stock belonging to railroad companies for a period of twenty (20) years beginning September 1, 1920, for construction of seawalls, etc.

H. B. No. 181, supra, provides for the grant and donation by the State of Texas to the City of Aransas Pass of five-ninths (5/9) of the net amount of the State ad valorem taxes collected upon the property and from persons in the county of San Patricio, including the rolling stock belonging to railroad companies for a period beginning September 1, 1920, and ending August 31, 1960.

Construing H. B. No. 55, supra, with the caption and body of H. B. No. 181, supra, it is evident that the purpose of enacting said H. B. No. 181 was to extend the provisions of said H. B. 55 for an additional twenty (20) years and to amend same to provide, among other things, that the City of Aransas Pass would receive five-ninths (5/9) of said taxes for and during the extended period.

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We conclude that the Legislature intended for the City of Aransas Pass to receive eight-ninths (8/9) of said taxes collected to and including August 31, 1940 as was originally provided for in H. B. No. 55, supra. It is equally apparent that the Legislature intended that the City of Aransas Pass receive five-ninths (5/9) of said taxes collected from September 1, 1940 to and including August 31, 1960.

We wish to point out, however, that the donation to the City of Aransas Pass is subject to the following provision found in H. B. No. 55, supra, and also incorporated in H. B. No. 181, supra, which reads: "provided further that when the sinking fund created under the provisions of this Act shall become sufficient to retire all bonds issued hereunder, this Act shall cease to be operative and the donation herein made shall cease."

We trust that this opinion will satisfactorily answer the questions raised by your letter.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*
Glenn R. Lewis
Assistant

By *Lee Shoptaw*
Lee Shoptaw

APPROVED JAN 12, 1940

LS: jm

J. F. Moore
FIRST ASSISTANT
ATTORNEY GENERAL

