

OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD CMANN
Attorney General

Honorable P.W. Minter
County Attorney
Jim Hogg County
Hebbronville, Texas

Dear Sir:

Opinion No. 0-1865
Re: Construction of Article 2368a,
Section 6, Vernon's Annotated
Civil Statutes

We acknowledge receipt of your request for an opinion on the question stated as follows:

"Is it your opinion that Sec. 6, of Art. 2368a, applies only to incorporated cities, towns or villages, and does not apply to Commissioners' Courts?"

Article 1086, Vernon's Annotated Civil Statutes, provides that towns, cities and villages, incorporated under either general or special laws, who accept the benefits of Chapter 9, Title 28, Vernon's Annotated Civil Statutes, may have the power to improve any highways within their limits, together with other powers. The following article explains the procedure to be followed, and Article 1088, Vernon's Annotated Civil Statutes, provides that the city may pay the whole cost or may assess not more than three-fourths of the cost against the owners of abutting property.

There are no provisions for a county to assess any part of the costs of street improvements against the owners of abutting property.

Article 2368a, Section 2, Vernon's Annotated Civil Statutes provides that no commissioners' court or City shall make or enter into any contract or agreement for the construction of any public buildings, etc., requiring or authorizing any expenditure in excess of \$2,000, without first submitting said contract or agreement to competitive bids. Said article also provides for the notice to bidders.

Article 2368a, Section 3, Vernon's Annotated Civil Statutes, provides that when time warrants are to be issued to pay the contract, that fact shall be set out in the notice, and there shall also be set out the maximum amount of time warrant indebtedness, the rate of interest such warrants are to bear, and the maximum maturity date thereof.

Article 2368a, Section 4, provides for an election on whether the bonds shall be issued. Such election is to be had upon the petition of ten per cent of the qualified voters.

Article 2368a, Section 6, Vernon's Annotated Civil Statutes, simply provides that Sections 2, 3 and 4, supra, shall not apply to expenditure for paving, drainage, street widening and other public improvements, in cases where not less than one-third of the cost thereof is to be paid by special assessment levied on the properties to be benefited thereby.

There being no provision for special assessment against property for improvements of the nature stated by counties, the effect of Section 6, Article 2368a, supra, would apply only to cities, towns and villages accepting the benefits of Chapter 9, Title 28, Vernon's Annotated Civil Statutes.

Trusting that the foregoing fully answers your inquiry,
we are,

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Richard H. Cocke
Richard H. Cocke
Assistant

RHC:GO:wc

APPROVED JAN 22, 1940
s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee by s/BWB Chairman