



**THE ATTORNEY GENERAL  
OF TEXAS**

GERALD C. MANN  
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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. M.O. Flowers  
Secretary of State  
Austin, Texas

Dear Sir:

Opinion No. 0-2038  
Re: Filing fee for renewal of railroad com-  
pany charter.

This will acknowledge receipt of your letter of March 1, 1940, in which you seek the opinion of this department on the proposition of the correct filing fee to be charged a railroad corporation upon the filing of a renewal where the charter thereof had expired by lapse of time.

Article 6268, Title 112, Revised Civil Statutes of Texas, 1925, authorizes the renewal of a charter of a railroad company. This article is silent as to the amount of the fee to be charged therefor.

Article 3914, Revised Civil Statutes of Texas, 1925, provides the fees to be charged by the Secretary of State for the filing of the various instruments required by law to be filed in that office. Paragraph one thereof reads:

"Upon filing each charter, amendment, or supplement thereto of a channel and dock, railroad, magnetic telegraph line, street railway or express corporation, a filing fee of Two Hundred (\$200.00) Dollars, provided, that if the authorized capital stock exceeds One Hundred Thousand (\$100,000.00) Dollars, an additional filing fee of Fifty Cents for each One Thousand (\$1,000.00) Dollars authorized capital stock or fractional part thereof, after the first One Hundred Thousand (\$100,000.00) Dollars, shall be paid."

Article 1315(a), Revised Civil Statutes of Texas, 1925, deals with the right of private corporations organized under Title 32, Revised Civil Statutes, to renew their charters. The same reads:

"Subject to a finding by the Secretary of State as hereinafter provided, any private corporation organized or incorporated for any purpose or purposes authorized under this Title, at any time within ten (10) years prior to the expiration of its charter, or any extension thereof, may extend such charter and the corporate existence of such corporation for an additional period of

not to exceed fifty (50) years from the expiration date of the original charter, or any extension thereof, with all the privileges, powers, immunities, right of succession by its corporate name, and rights of property, real and personal, exercised and held by it at such expiration date, to the same intents and purposes as upon original incorporation. The manner of extending any such charter shall be by a resolution in writing, adopted at any annual or special meeting of stockholders called for that purpose by stockholders holding a majority of the shares of capital stock of such corporation then outstanding, such resolution to specify the period of time for which the charter is extended, and a copy of such resolution, duly certified by the secretary of the corporation, under the corporate seal, shall be filed and recorded in the office of the Secretary of State. Upon the adoption of such resolution and the filing of a certified copy thereof with the Secretary of State, together with payment of the filing fee herein prescribed, the charter and corporate existence of such corporation may be extended for the additional period of time recited in such resolution. The filing fee to be paid for any such extension of a charter shall be such fee as said corporation would be required under the Statutes of Texas to pay in the event it was then applying for a new charter instead of extending its then existing charter.

"Such extensions, however, may be made only in instances where the Secretary of State shall have found, after proper investigation, that such corporation is solvent and its capital unimpaired."

The above quoted article was passed at the regular session of the 45th Legislature. Thereafter, at the first called session of the same Legislature, Article 1315(b) was passed, making Article 1315(a), supra, apply to all private corporations. It reads:

"The provisions of Article 1315(a) shall extend to and include all private corporations incorporated under the general laws of Texas. The period of ten (10) years prior to the expiration of the charter or any extension thereof referred to in Article 1315(a) shall include the period of time during which such corporation may have continued its existence under the provisions of Article 1389 of the Revised Civil Statutes of 1925."

That portion of Article 3914, supra, with which we are here concerned is a general statute providing for the collection of filing fees by the Secretary of State for the filing of "...each charter, amendment, or supplement thereto." Whereas, Articles 1315(a) and 1315(b), supra, are special statutes dealing with the sole subject of renewals of charters. It is our opinion that there is no conflict between Articles 3914, 1315(a) and 1315(b), supra. The latter articles merely make provision for something not specifically covered by Article 3914.

Article 1315(a) provides that:

".....The filing fee to be paid for any such extension of a charter shall be such fee as said corporation would be required under the Statutes of Texas to pay in the event it was then applying for a new charter instead of extending its then existing charter...."

This provision is made applicable to railroad corporations by the terms of Article 1315(b), supra. Such provision necessarily refers us to Article 3914, supra, for a determination of the correct fee to be charged. The filing fee required by such article for a new charter is Two Hundred (\$200) Dollars plus Fifty cents (50¢) for each One Thousand (\$1,000) Dollars capital stock of fractional part thereof over and above the first One Hundred Thousand (\$100,000) Dollars. We believe this to be the proper basis for calculating the filing fee to be paid upon the filing of a renewal or extension of a railroad company charter.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/ Lloyd Armstrong  
Lloyd Armstrong  
Assistant

LA:AW:wc

APPROVED MARCH 30, 1940  
s/ Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee by s/BWB Chairman