



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

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

Dear Sir:

Opinion No. 0-2040
Re: Payment of state warrants in
the order of their serial
numbers

In your letter of March 4, 1940, you advise that the dairy for the Austin State School sells its products to other State agencies and received therefor a general revenue warrant; that by law the cash receipts for the products sold by the Austin State School are deposited in the State Treasury and are appropriated for the use and benefit of such State School. You wish to be informed if, under these circumstances, your department is authorized to accept the general revenue warrant for deposit, and whether the Treasurer will be authorized to pay the same ahead of call.

In this connection you state:

"If the Treasury would accept the warrant and pay it out of call, the rights of any other warrant would not be prejudiced thereby, since any amount of money used by the Treasury in paying the warrant belonging to the State agency would be immediately redeposited to the credit of the General Revenue Fund."

In other words, it appears that the payment of this warrant would be, in reality, a mere bookkeeping transaction; that no amount of money would actually be withdrawn from the General Revenue Fund; and that the State, in fact, will be making only an entry adjusting its accounts.

Article 4386, Vernon's Civil Statutes, reads as follows:

"All warrants on the State Treasury shall be general warrants, and shall be on an equal basis with each other except that in the event

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of a question and the necessity arising as to the priority of payment of any such warrant, they shall be paid in order of their serial number, such warrants to be numbered at all times in the order of receiving the accounts in the Comptroller's office. . . ."

Under your statement of facts, in this situation there can be no "question and necessity arising as to the priority of payment" of warrants, for the rights of no persons otherwise entitled to priority of payment of warrants held by them can be in any manner prejudiced by such a transaction. You are therefore advised that, in our opinion, you may accept this warrant for deposit, and the Treasurer will be authorized to "pay" the same "ahead of call" by adjusting his accounts accordingly.

This opinion, of course, is not to be construed as approving such a transaction in any situation other than one of the identical type presented for examination in your letter.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

R. W. Fairchild

R. W. Fairchild
Assistant

APPROVED MAY 2, 1940

RWF:GO

George B. Mann
ATTORNEY GENERAL OF TEXAS

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