



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable C. Burt Potter
County Attorney
Sinton, Texas

Dear Sir:

Opinion No. O-3609
Re: Validity of agreement
between Sinton and San
Patricio County Conserv-
ation and Reclamation
District No. 1 for co-
operative flood control.

In your letter of August 11, 1941, you submit
the following for our opinion:

"San Patricio County Conservation & Reclamation District No. 1 is a political subdivision of the county and State, created under general law. This district created and maintains a series of ditches near the city of Sinton, none within the city. H.B. 181 Acts 1939 Leg. authorizes flood control for the city, and the city proposes certain drains or ditches to relieve the flood condition of the city. The city engineer desires to lead the city new ditches into a lateral ditch of the above conservation and reclamation district, and at the cost of the city out of the flood control funds. The city will obtain the right-of-ways parallel and adjoining the said district ditch, and widen the districts present ditch. The city agrees to defray the expenses necessary in the construction and also agrees to maintain their pro rata portion of the proposed project from year to year.

"In other words the plan would be if the city's new ditch throws 70% of the water into the joint ditch, then they to bear 70% of all

and any damages that might arise and such portion of cost of maintenance of such ditch jointly used.

1. Can the city and Drainage District enter into such contract.

2. Under H. B. 181 is there any provision for the proposed pro-rata maintenance funds upon which the District may rely.

3. Can two independent political subdivisions of the State enter into a joint project and bear costs on a pro rata basis.

4. Must each political subdivision stand and operate separately."

House Bill 181, 46th Legislature, granted to the City of Sinton three-ninths of the net amount of the State ad valorem taxes collected in San Patricio County for a period of twenty years. Sec. 6 of said H. B. 181 provides in part:

"The moneys herein and hereby granted and donated to the City of Sinton are declared to be trust funds for the purpose of aiding the City of Sinton in paying the interest upon and principal of, and providing sinking fund for payment thereof, bonds heretofore or hereafter issued, the proceeds of which bonds were to be or are to be used exclusively in constructing sanitary and storm systems by drainage levee and canal construction, including ditches, breakwaters, bridge structures and other protections in, along, or draining into Chiltipin Creek, and to build bridges and passages across same and any other necessary drainage systems and protections in order that said City may be removed from calamitous overflows and the dangerous unsanitary condition resulting from such overflows and for the purpose of aiding the City of Sinton in paying the interest upon any principal of, and providing sinking fund

for payment thereof of bonds heretofore or hereafter issued to refund any bonds as have been or are so issued. . ."

We will consider your third question first. While such question is a general one, we presume that when you say "two independent political subdivisions" you mean the City of Sinton and the San Patricio County Conservation & Reclamation District, and that the "joint project" mentioned by you is the one proposed by these two particular political bodies.

If the proposed system of ditches would tend to accomplish any of the purposes set out in Sec. 6 of House Bill 181, then the proceeds of any bonds mentioned in said Section 6 may be used on the project, notwithstanding it may be a joint one contributed to by the Conservation & Reclamation District. Likewise, if the ditch is serving the proper purposes of the District, that subdivision may contribute to its maintenance. For, in such instance, neither entity would be expending its money for an unauthorized purpose. The pooling their resources and the building of a cooperative system might well effect a saving for both the City and the District, with obvious beneficial results to the taxpayers contributing from each angle. There is nothing which prohibits two governmental bodies from making a common cause and jointly entering into a project when it is in furtherance of the purposes of both. *Hughes v. County Commissioners' Court of Harris County*, 35 S. W. (2) 818 (city and county contributing jointly to the building of a road); *Malone v. Peay*, 17 S. W. (2) 902, Tenn., and *State v. Oliver*, 35 S. W. (2) 396, Tenn. (State acquiring land and delivering same to Federal Government for establishment of park thereon).

We find nothing in House Bill 181 to suggest that expenditures of money therein provided for the use of the City of Sinton must be confined to areas within its corporate limits.

Assuming that the proposed improvement would be within the purposes mentioned in the quoted part of Sec. 6, H. B. 181, the City could use funds provided in that Act in constructing the ditches leading into those of the District.

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And, thereafter the City and District could each properly bear its pro rata cost of maintenance. We believe this will constitute a sufficient answer to your third question, as well as the fourth.

Your first and second questions are so general and might be affected by so many different facts and conditions not known to us that we cannot undertake to answer them.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By (signed) Glenn R. Lewis
Glenn R. Lewis
Assistant

GRL:BT

APPROVED OCT 9, 1941

(Signed) Grover Sellers

FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED OPINION COMMITTEE
By BWB Chairman