



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL**  
ATTORNEY GENERAL

June 28, 1951

Hon. Allan Shivers  
Governor of Texas  
Austin, Texas

Opinion No. V-1197.

Re: Questions concerning the  
validity and effect of House  
Bill No. 190 relating to op-  
erations of soil conserva-  
tion districts.

Dear Governor:

Your letter requesting our opinion relative to the above  
captioned matter reads as follows:

"I will appreciate your opinion on the following  
questions in connection with the above numbered bill:

"(1) The caption begins 'amending House Bill  
No. 97, Acts of the Fifty-first Legislature, . . . etc.'  
There is nothing following the enacting clause to indi-  
cate that this proposed legislation amends existing  
statutes. Question: Is there a fatal conflict between  
the caption and the body of the Act?

"(2) Section 4 of the Act authorizes the employ-  
ment of auditors and prescribes the duty of the auditors  
but makes no reference to accounts of the Soil Conser-  
vation District's being audited by the State Auditor.  
Question: Under this Act, can the State Auditor con-  
tinue to audit the accounts of the Soil Conservation Dis-  
tricts?

"I must act on this bill not later than June 28th  
and will appreciate your advice prior to that time."

The caption of House Bill No. 190 states that it is "an  
Act amending House Bill No. 97, Acts of the Fifty-first Legislature,  
Regular Session, 1949, . . ." The body of the bill does not state that  
it is amending said House Bill, and in reality does not do so except  
by necessary implication and then only as to certain provisions of  
House Bill No. 97, Acts 51st Leg., R.S. 1949, ch. 540, p. 1000, that  
are in conflict with the provisions of House Bill No. 190, Acts 52nd  
Leg., R.S. 1951.

It is our opinion that there is no fatal conflict between  
the caption and the body of House Bill No. 190. We have carefully

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examined the caption of House Bill No. 190 in connection with the body of the bill and have concluded that the Act constitutes a complete bill within itself and that the caption is sufficiently broad to cover the various provisions contained in the body of the bill. The portion of the caption of House Bill No. 190 which states that it is amending House Bill No. 97 should be rejected as surplusage. 1 Sutherland on Statutory Construction (3rd Ed. 1943) 328.

We have also compared the provisions of House Bill No. 190 with the provisions of House Bill No. 97 of the 51st Legislature and find that certain provisions of both bills are in harmony, that certain portions of House Bill No. 97 have been re-enacted as a part of House Bill No. 190, and that a portion of the provisions of House Bill No. 190 are in direct conflict with the provisions of House Bill No. 97. We further find that there are certain provisions of House Bill No. 97 the substance of which is not covered or touched upon by the provisions of House Bill No. 190.

It is our opinion that House Bill No. 190, if it becomes law, would be valid; that the provisions thereof are in pari materia with the provisions of House Bill No. 97; and that both Acts should be construed together to make a harmonious whole. Townsend v. Terrell, 118 Tex. 463, 16 S.W.2d 1063 (1929). Of course, as House Bill No. 190 is the latest expression of the Legislature, the provisions thereof, in case of an irreconcilable conflict with the provisions of House Bill No. 97, would control over and impliedly repeal the provisions of House Bill No. 97 which are in irreconcilable conflict. Att'y Gen. Op. V-990 (1950) and authorities there cited.

It is our opinion that if House Bill No. 190 becomes a law, the State Auditor can still audit the accounts of the soil conservation districts as provided for in Section 3 of House Bill No. 97. House Bill No. 190 provides for annual audits to be provided by the supervisors of the soil conservation districts. However, it is our opinion that these two provisions are not in conflict with each other and that Section 4 of House Bill No. 190 does not impliedly repeal Section 3 of House Bill No. 97, Acts 51st Leg., R.S. 1949, ch. 540, p. 1000.

#### SUMMARY

There is no fatal conflict between the caption and the body of House Bill No. 190, Acts 52nd Legislature, relating to soil conservation districts. House Bill No. 190 and House Bill No. 97, Acts 51st Legislature, should be construed together as they are in pari materia. Since House Bill No. 190 is the latest expression of the Legislature, in case of conflicting

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provisions, the provisions of House Bill No. 190 will control. Att'y Gen, Op, V-990 (1950). If House Bill No. 190 becomes law, the State Auditor can continue to audit the accounts of the State soil conservation districts.

Yours very truly,

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Attorney General

APPROVED:

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