



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

August 21, 1953

Hon. Robert S. Calvert
Comptroller of Public Accounts
Capitol Station
Austin, Texas

Letter Opinion No. MS-88

Re: Legality of issuing a
single warrant payable to
the Sabine River Authority
for the amount appropriated
to that agency in the appro-
priation act for 1953-55.

Dear Mr. Calvert:

You have requested an opinion regarding the fol-
lowing provision in the general appropriation act for the
1953-55 biennium (Chapter 81, Acts 53rd Leg., 1953, at p.
289):

"For the Years Ending
August 31, 1954 August 31,
1955

"There is hereby appro-
priated and there shall
be paid to the Sabine
River Authority, out of
any funds in the State
Treasury not heretofore
otherwise appropriated,
which said sum shall be
used for defraying any
expenses necessary to the
management of the affairs
of the district, includ-
ing aid in the adminis-
tration of any compact
for the Sabine River with
the State of Louisiana,
the sum of

30,000

Unexpended
Balance

"The Sabine River Authority
shall repay the said amount
to the State out of the
proceeds of the first bonds
issued by the said Authority."

You state that you have been requested by the President of the Sabine River Authority to issue a warrant in the amount of \$30,000 payable to the Authority when the appropriation becomes available on September 1, 1953. You have asked us to advise you whether you are authorized to issue the warrant in a lump sum payable to the Authority, to be disbursed by it in a manner other than by the passing of claims for warrants through the State Treasury.

You have stated that an appropriation in the original act creating the Sabine River Authority (Sec. 28, Ch. 110, Acts 51st Leg., R.S., 1949) was paid over to the Authority to be disbursed as it saw fit, but that an appropriation by the 52nd Legislature (Ch. 499, Acts 52nd Leg., 1951, at p. 1421) was disbursed by warrants payable to the claimants of the Authority and not in a lump sum payable to the Authority itself.

The act creating the Sabine River Authority contemplates that this agency will have a depository and will disburse funds in the depository by warrants drawn and signed by its authorized officers or employees. The State Auditor is required to make an annual audit of the accounts of the district and of the depository. Secs. 4, 5, 7, 9, Ch. 110, supra. It is clear that money coming to the Authority from sources other than by legislative appropriation out of the State Treasury are to be kept in its depository and disbursed by the Authority upon its own warrants.

The appropriation contained in Section 28 of Chapter 110 read as follows:

"There is hereby appropriated, and there shall be paid to said district out of the General Fund not otherwise appropriated, the sum of Twenty-five Thousand Dollars (\$25,000), . . . The district shall repay said amount to the State out of the proceeds of the first bonds issued by the district." (Emphasis added.)

This appropriation was paid over to the Authority to be disbursed by it rather than by warrants on the State Treasury payable to its claimants. We are in agreement that this procedure was the proper one. We think the Legislature intended that the appropriation, which was in the nature of an advance or loan, was to be turned over to the Authority for disbursement through its regular channels.

The appropriation contained in the 1951-53 appropriation act read:

"There is hereby appropriated for the use of the Sabine River Authority out of any funds in the State Treasury not heretofore otherwise appropriated, the sum of Ten Thousand Dollars (\$10,000), which may be withdrawn from time to time on warrants signed by the President and the Secretary of the said Sabine River Authority. The appropriation shall be treated as a loan from the State of Texas to the Sabine River Authority, and shall be repaid to the State of Texas by the Sabine River Authority from the first revenue of the Sabine River Authority District."

This appropriation was disbursed by warrants payable to the claimants of the Sabine River Authority, and not in a lump sum as here requested. The language differs from that of the provision we are construing, and it is not necessary for us to consider whether a lump sum payment would have been proper under its terms. It is significant that this phraseology was not used in the 1953-55 appropriation. On the contrary, the wording in the 1953-55 appropriation act follows closely that used in the original appropriation in 1949. It provides that the sum appropriated shall be paid to the Authority, not to its claimants. The appropriation of the "unexpended balance" for the fiscal year 1954-55 means, we think, that the Authority may withdraw all or a part of the \$30,000 during the first fiscal year and that it may withdraw the remaining funds during the following year. The time and amount of each withdrawal is left to the discretion of the Authority.

In answer to your question, you are advised that you will be authorized to issue the warrant as requested on or after September 1, 1953.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By
Mary K. Wall
Assistant