



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD  
ATTORNEY GENERAL

November 10, 1955

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

Opinion No. S-180

Re: Tax rates to be used in calculating amount of money to be distributed to local taxing units under the Federal Flood Control Law.

Dear Mr. Calvert:

In our Opinion V-543 we advised you that the funds allotted to each county and paid to the State by the Secretary of the Treasury of the United States should be distributed according to the following formula:

A = Amount of funds to be allocated  
R = Tax rate of school or road district  
N = Number of acres acquired by United States within the school or road district  
R x N = School or Road District numerator  
S = Sum of the numerators of all School and Road Districts in Flood Control District

$$\frac{R \times N}{S} \times A = \text{Amount to be distributed to each School and Road District}$$

In your letter of request you submitted the tax rates according to a certificate from the County Tax Assessor-Collector of Denton County, showing the following:

"County Tax Rate, Denton County, 1955 ----- \$1.04

<u>No.</u>	<u>School District</u>	<u>1955 Rate</u>
65	Lewisville Independent School	1.25
114	Northwest Independent School	1.00
41	Argyle Common School	1.00
61	Double Oak Common School	1.00
47	Little Elm Common School	1.00
53	Lake Dallas Common School	1.25
D	Denton Independent School	1.50
F	Frisco Independent School	1.50
P	Prosper Independent School	1.25

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In calculating the proportion of the funds to distribute to Denton County according to the above formula, you request our opinion as to whether the total county tax rate of \$1.04 should be used as the "R" in the formula or whether certain one or more of the tax rates as shown in the "Breakdown of County Tax Rate for 1955" should be used. Section 701c-3 of 33 U.S.C.A., which amends Acts of Congress, Chapter 377, Sec. 7, 55 Stat. 650, reads as follows:

"75 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of the leasing of lands acquired by the United States for flood-control purposes shall be paid at the end of such year by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is situated: Provided, That when such property is situated in more than one State or county, the distributive share to each from the proceeds of such property shall be proportional to its area therein."

Section 1 of Senate Bill No. 343, 49th Legislature, Chapter 250, reads as follows:

"Section 1. The Comptroller of Public Accounts of this state is hereby authorized to receive and receipt for all funds due or payable, or hereafter to become due or payable, by virtue of the Act of Congress of August 18, 1941, Chapter 377, Section 7, 55 Stat. 650, 33 U.S.C.A., Section 701c-3. All of such funds shall be placed in a separate account entitled 'Flood Area School and Road Fund' to the credit of the Comptroller of Public Accounts and shall never become a part of the general funds of the state. The Comptroller shall annually pay over such funds to the school district or districts, county, or other political subdivision, as hereinafter provided, to be expended for school purposes, or on the roads, as contemplated by the Act of Congress."

Section 3 provides, in part:

"On or before the 15th day of September of the year 1945 and each year thereafter, the Comptroller of Public Accounts shall pay to the school district or districts and to the county or other political subdivision collecting road

taxes, their proportionate share of funds on deposit in such 'Flood Area School and Road Fund' which were produced by leases upon lands acquired by the United States for flood control purposes located within such school district, county or other political subdivision, the pro rata to be allotted to the school districts and to the road taxing entity to be based upon the proportion which their respective tax rates bears to the sum of the two rates. The Comptroller shall add the school district tax rate and the road tax rate together and the school district shall be entitled to receive such a percentage of the 'Flood Area School and Road Fund' as their tax rate bears to the sum of the school tax rate and the road tax rate; and the county, or other road taxing entity, shall be entitled to receive its proportionate part of such fund based upon the proportion which its tax rate bears to the sum of the two tax rates. . . ."

Your question doubtless arises by virtue of the following portion of Section 3 of Senate Bill No. 343, which reads:

"On or before the 15th day of September of the year 1945 and each year thereafter, the Comptroller of Public Accounts shall pay to the school district or districts and to the county or other political subdivision collecting road taxes, their proportionate share of funds on deposit . . . the pro rata to be allotted to the school districts and to the road taxing entity to be based upon the proportion which their respective tax rates bears to the sum of the two rates. . . ."

This provision standing alone would indicate that you should use the full county rate of \$1.04. However, you will note that the Federal Act specifically provides that the money paid to the State Treasury is "to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is situated." To distribute this fund for purposes other than for the benefit of public schools and public roads of the county would, in our opinion, be contrary to the intent of the Legislature. We also call your attention to that portion of Section 1 of Senate Bill No. 343 which states:

"The Comptroller shall annually pay over such funds to the school district or districts, county, or other political subdivision, as hereinafter provided, to be expended for school purposes, or on the roads, as contemplated by the Act of Congress."

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You will also note that Section 3 contains the following provision:

"The Comptroller shall add the school district tax rate and the road tax rate together and the school district shall be entitled to receive such a percentage of the 'Flood Area School and Road Fund' as their tax rate bears to the sum of the school tax rate and the road tax rate . . ."

You are, therefore, advised that in allocating the funds according to the formula set out in our Opinion V-543, you should use only the tax rates that are levied for road purposes. As to Denton County for the tax year 1955, only the following should be used:

Road & Bridge -----	30 cents
Road Bond Sinking -----	10 cents
Right-of-Way Sinking -----	9 cents

"R" in the formula would be the sum of 49 cents.

#### SUMMARY

In allocating the funds paid to the State under the Federal Flood Control Act, for its distribution to schools and counties, only the taxes levied by the county for road purposes should be used in the calculations.

Yours very truly,

APPROVED:

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