



**THE ATTORNEY GENERAL  
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON**  
ATTORNEY GENERAL

April 30, 1957

Hon. Frates Seeligson, Chairman  
Revenue and Taxation Committee  
House of Representatives  
Capitol Station  
Austin, Texas

Opinion No. WW-103

Re: Constitutionality of H. B. No. 56,  
an Act amending Article 7298 of  
the Revised Civil Statutes of  
Texas, 1925.

Dear Mr. Seeligson:

H. B. No. 56 amends Article 7298 of the Revised Civil Statutes, 1925, as amended so as to provide that no delinquent taxpayer shall have the right to plead or rely upon any statute of limitation by way of defense against the payment of taxes due to school districts or owing on personal property.

When a cause of action has become barred, the cause of action cannot be revived by subsequent legislation. McCutcheon and Church v. Smith, 242 S.W. 454 (Sup.Ct.). However, the Supreme Court of Texas in Sam Bassett Lumber Co. v. City of Houston, 145 Tex. 492, 198 S.W.2d 879, held that Article 7298, Vernon's Civil Statutes, which was enacted a year prior to the amendment of Section 55 of Article III of the Texas Constitution ( which amendment gave the Legislature the authority to release or extinguish taxes which had been delinquent for ten years) did not release or extinguish the taxes but merely affected the remedy of collection.

Therefore, this bill does not have the effect of reviving a cause of action that has become barred. The Sam Bassett case further held that the provisions of Article 7298, V.C.S., constitute general and not special legislation. We have been unable to find any ground upon which to hold that H.B. No. 56 is unconstitutional.

Hon. Frates Seeligson, page 2 (WW-103)

SUMMARY

H.B. No. 56, amending Article 7298, V.C.S.,  
is constitutional.

Yours very truly,

WILL WILSON  
Attorney General

By   
W. V. Geppert  
Assistant

WVG:cs

APPROVED:

OPINION COMMITTEE  
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REVIEWED FOR THE ATTORNEY GENERAL  
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