



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

May 5, 1958

Mr. W. N. Blanton, Chairman,
San Jacinto State Park Commission,
2031 Gulf Building,
Houston, Texas

Opinion WW-427.

Re: May the San Jacinto State
Park Commission legally
continue to place funds in
a special bank account to
be expended at the direc-
tion of the Commission and
under the authority of the
State Board of Control?

Dear Mr. Blanton:

You have requested our opinion as to whether the San Jacinto State Park Commission may legally place funds into a special bank account to be expended at the direction of said Commission, under the authority and in connection with the action of the State Board of Control.

We are informed that funds so placed in the Special Bank Account are collected under a concession contract at the San Jacinto State Park. In the past, these funds have been expended at the direction of the Commission and under the authority and with the cooperation of the State Board of Control for the sole purpose of improving, preserving and protecting the San Jacinto State Park and property therein located.

The San Jacinto State Park was established by Article 6071, Vernon's Annotated Civil Statutes, which reads in part as follows:

" . . . the said San Jacinto State Park shall be under the care and direction of the State Board of Control. Said Board and the Commissioners shall jointly endeavor to improve, preserve and protect the lands and property within and connection with said San Jacinto State Park."

Article 6072, Vernon's Annotated Civil Statutes, provides for the appointment of the San Jacinto State Park Commission, and its:

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". . . duties shall be to advise with and assist the Board of Control in the improvement, care and preservation of the lands now owned and hereafter acquired by the State, known as San Jacinto Battlefield. . . ."

Further duties of the San Jacinto State Park Commission are set forth in Article 6073, Vernon's Annotated Civil Statutes, as follows:

"It shall be the duty of said commissioners, acting with the advice and consent of the Board of Control, to cause to be erected upon a site by them selected a keeper's cottage and other necessary buildings; to arrange for or employ a keeper who shall reside upon the grounds and who shall be clothed with all the powers and authority of a peace officer of the county for the purposes of caring for and protecting the property of the State; to provide the necessary teams, implements and other utensils for the use of such keeper and other employees in the work of beautifying, improving and protecting said grounds; to cause to be erected around, about and upon said grounds such fences as shall, in the judgment of the Commissioners and the Board, serve the best interests of the State in the care and protection of its property; to provide for and outline a plan, diagram and design of the work to be done from time to time, copies of which shall be kept in the office of the Board for reference, and to do any and all things necessary to be done, with the intent and purpose of beautifying, improving and protecting the State's interest therein."

In Attorney General's Opinion 0-951 (1939), this Department expressed the opinion that the net proceeds from concession contracts were available for use on the grounds of the San Jacinto State Park under the direction of the Board of Control.

In 1949, most State parks were placed under the control and custody of the State Parks Board by Article 6067a, Vernon's Annotated Civil Statutes. However, such Article specifically excepted the San Jacinto State Park from such action and expressly left Articles 6071, 6072 and 6073 unamended.

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We feel it is clear that the Legislature intended to preserve the administrative scheme of the San Jacinto State Park as it existed in 1949. We have found no statutes passed since that time which would alter that scheme.

Attorney General's Opinion No. 0-2852 (1941) reaffirms the proposition that the net proceeds from concession contracts are available for use on the grounds of the San Jacinto State Park and establishes that such funds may be expended upon a proper resolution of the State Board of Control. We concur in such opinion. Your inquiry is answered in the affirmative.

SUMMARY

The San Jacinto State Park Commission legally may continue to place funds in a special bank account to be expended at the direction of the Commission under the authority of the State Board of Control.

Very truly yours,

WILL WILSON
Attorney General of Texas

By 
Tom I. McFarling
Assistant

TIM:wb:pf

APPROVED:

OPINION COMMITTEE

Geo. P. Blackburn, Chairman

J. C. Davis, Jr.
Jack Goodman
C. K. Richards

REVIEWED FOR THE ATTORNEY GENERAL

By: W. V. Geppert.