



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

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July 20, 1964

Honorable D. C. Greer
State Highway Engineer
Texas Highway Department
Austin, Texas

Opinion No. C-284

Re: Whether the Highway Department may use its funds to reimburse the United States Department of the Interior, Geological Survey Division, for performance of research needed to obtain and analyze hydrologic data for use in the design of highway drainage structures when the Texas Water Commission is financially unable to perform such research.

Dear Mr. Greer:

Your request for an opinion on the above subject reads in part as follows:

"This Department is considering a cooperative research project with the Geological Survey, United States Department of the Interior for the purpose of obtaining and analyzing hydrologic data for use in the design of highway drainage structures. The work would be performed by employees of the Geological Survey and the cost thereof, exclusive of general administrative and accounting, would be borne by the Highway Department.

"A question has been raised as to whether or not the Highway Department may legally pay for work of this nature from the highway fund. . . . a letter from the Texas Water Commission . . . reveals that Agency is unable to perform the needed research and further that it in no way conflicts with or duplicates their work.

"We pose the following question:

"May the Highway Department use its funds to reimburse the United States Department of Interior, Geological

Survey Division, for performance of research needed to obtain and analyze hydrologic data for use in the design of highway drainage structures when the Texas Water Commission is finally unable to perform such research?"

The current general appropriations bill for the fiscal years ending August 31, 1964, and August 31, 1965, appropriates funds to the Highway Department to be expended for the following:

"20. For all other operating expenses involved in establishing, planning, constructing, and maintaining a system of State Highways as contemplated and set forth in Chapter I, Title 116, Revised Civil Statutes of 1925, and Chapter 186, General Laws, Thirty-ninth Legislature, Regular Session, and amendments thereto, to pay refunds authorized by law, and to pay court costs in suits involving the Highway Department. . . ." House Bill 86, Acts, 58th Legislature, Regular Session, 1963, Chapter 525, page 1499. (Emphasis supplied).

Among sections of the material cited in the above excerpt is the following:

Article 6667:

" . . . It [the Department] shall investigate and determine the methods of road construction best adapted to the different sections of the State, and shall establish standards for the construction and maintenance of highways, bridges, and ferries, giving due regard to all natural conditions . . . in the different counties."

It is a well-established principle that statutes containing grants of power are to be construed so as to include the authority to do all things necessary to accomplish the object of the grant. Terrell v. Sparks, 104 Tex. 190, 135 S.W. 519 (1911).

In Johnson v. Ferguson, 55 S.W.2d 153 (Tex.Civ.App. 1932, error dism.), the Court said at page 160:

" . . . To the members of the commission and in large measure to its chief engineer are

Hon. D. C. Greer, page 3 (C-284)

intrusted responsibilities of outstanding importance. To meet these responsibilities they are invested with a wide discretion. This is of necessity so from the very nature of their duties. To properly discharge such duties they would perforce be required to make careful investigation from all competent and reasonably available sources in determining the basis for their action . . ."

It requires no argument to show that floods are natural conditions to which Article 6667 stipulates the Commission shall give due regard in establishing standards.

There being no statutory provision limiting the Highway Department to the use of reports by any one agent, we answer your question affirmatively.

SUMMARY

The Highway Department may use its funds to reimburse the United States Department of Interior for collecting and compiling research data needed to design highway drainage structures.

Yours very truly,

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By 
Larry Craddock, Jr.
Assistant

LC,jr:ms

Hon. D. C. Greer, page 4 (C-284)

APPROVED:

OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL

By: Stanton Stone