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Honorable John Cornyn  
Attorney General

Attorney General Opinions  
Liz Robertson, Chairperson Opinions Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

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Opinion Committee

Dear Ms. Robertson:

Lavaca County intends to construct several roads and bridges within the county, but has no existing funds to finance the construction.

TXDOT proposed to Lavaca County a construction program whereby the federal government would pay 80% of costs, the state would pay 10% of costs and the county would pay 10% of costs. TXDOT would finance the county's share of the construction costs through the State Infrastructure Bank which is set forth in Section 222.071 of the Transportation Code.

The TXDOT proposal did not specify the means by which the county would repay the loan. The county prefers to avoid the expenses attendant to the issuance of bonds or certificates of obligation under Chapter 271, Local Government Code or anticipation notes under Article 717W Revised Civil Statutes.

Please advise whether Lavaca County may receive such a loan upon the basis that repayment would be made from funds generated by a increase in the tax rate for the subsequent years.

Yours very truly,

  
James W. Carr

JWC:am

## **BRIEF**

### **STATEMENT OF FACTS**

Lavaca County intends to construct several roads and bridges within the county, but has no current revenue with which to finance the construction. The Texas Department of Transportation has proposed a program whereby the federal government would pay eighty (80%) percent of the construction costs, the state would pay ten (10%) percent of the construction costs and Lavaca County would pay ten (10%) percent of the construction costs. TXDOT would finance the county's share of the construction costs through the State Infrastructure Bank. Lavaca County would repay the loan by monthly or annual installments over an approximate period of five (5) years. Funds to repay the loan would be generated by a future tax levy.

### **ISSUE**

Whether Lavaca County is legally authorized to participate in such a construction project and finance the costs of the project through a current loan from TXDOT and a future tax levy.

### **DISCUSSION**

The county may levy taxes for public purposes (Article VIII, Section 3 Tx Const.). The total tax levy cannot exceed \$0.80 per \$100.00 of property valuation (Article VIII, Section 9). A county may create a debt provided that the county establishes an interest and sinking fund along with a provision for levying and collecting a sufficient tax to pay the debt (Article XI, Section 7; *Bexar County v. Mann*, 157 S.W. 2d 134 (1941); *Mitchell County v. City National Bank of Paducah*, 43 S.W. 880 (1898)).

The State of Texas may coordinate for counties in regards to federal grant programs (Section 742.004, Govt.Code). Financing of transportation costs are available for a county from the Texas Department of Transportation (Chapter 222, Transportation Code).

### **CONCLUSION**

In my opinion, Lavaca County would have legal authority to finance transportation construction costs through a loan from the Texas Department of Transportation provided that the county does not exceed the limitation amount imposed by the constitution and provided that the county establish a sinking fund and a means for levying and collecting a sufficient tax to pay the debt.