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OPINION COMMITTEE

The State of Texas  
House of Representatives



FILE # ML-47094-12  
I.D. # 47094

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July 16, 2012

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The Honorable Greg Abbott  
Texas Attorney General  
Attn: Opinions Committee  
PO Box 12548  
Austin, Texas 78711

RQ-1071-GA

RE: Statutory Authority for a County to Issue Bonds

Dear General Abbott:

In response to my request for an opinion on the authority of a county to issue bonds pursuant to article VIII, section 1-g(b), Texas Constitution, you concluded that “a county may not issue tax increment financing bonds under chapter 311 of the Tax Code.” Tex. Att’y Gen. Op. No. GA-0953 (2012) at 2. In reaching this conclusion, you stated that “[r]egardless of whether a constitutional amendment is necessary for counties to issue tax increment bonds, an issue we do not address here, the Legislature has not granted counties such authority. Texas courts have long held that without statutory authority, a county has no implied authority to issue bonds.” Id. (citations omitted). By implication this statement seems to suggest that if a county were granted such explicit statutory authority to issue tax increment bonds, it would be permitted to exercise such authority (even in the absence of a constitutional change).

I am therefore requesting clarification of this issue because the Legislature has in fact recently granted such explicit statutory authority by amending Section 222.107 of the Transportation Code to allow a county to issue bonds in connection with the creation of a Transportation Reinvestment Zone (“TRZ”).<sup>1</sup> Specifically, the new authority provides that “[i]n the event a county collects a tax increment, it may issue bonds to pay all or part of the cost of a transportation project and may pledge and assign all or a specified amount of money in the tax increment account to secure those bonds.” TEX. TRANSP. CODE §222.107(i-1).

In order to further clarify a county’s authority under this newly enacted statute, I respectfully request your opinion on the following question:

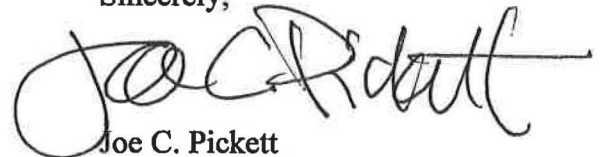
May a county form a transportation reinvestment zone (“TRZ”) for a transportation project, collect a tax increment pursuant to the TRZ, and pledge and assign all or a specified amount of money in the tax increment account

<sup>1</sup> See Tex. S.B. 1420, 82d Leg., R.S. (2011).

established for the TRZ to secure bonds issued to pay all or part of the cost of the transportation project?

If you have any questions regarding this request or need further information, please contact me at 512-463-0596.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe C. Pickett". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke extending to the right.

Joe C. Pickett  
Chairman