

February 13, 1939

Honorable H. L. Washburn
County Auditor
Houston, Texas

Dear Mr. Washburn:

Opinion No. 0-251
Re: Qualifications of
Voters in Bond Elections

This will acknowledge receipt of your letter of January 31, 1939, wherein you propound the following questions:

"I respectfully request that you give me an opinion defining the qualifications of voters in an election to be held in Harris County Flood Control District on February 25, 1939, for the purpose of authorizing the issuance of bonds of the Harris County Flood Control District to the amount of \$500,000. Such an election has been ordered by the Commissioners' Court of Harris County, and some confusion seems to exist in regard to the qualifications of the voters in such an election.

"I would particularly like to have your opinion covering the following points:

(1) Is an elector otherwise qualified who owns taxable property on the day of the election in the Harris County Flood Control District and who has duly rendered it for taxation for the year 1938 qualified to vote in the election, notwithstanding the fact that he has not rendered his property for taxation for the year 1939?

(2) Is Article 2955-b, R. S. 1925, requiring the Tax Collector to furnish a list of real

estate owners valid to the extent that he is bound to furnish such a list?

(3) Must the property owned be actually located within the boundaries of the Harris County Flood Control District in order to qualify the elector within the meaning of Section 3-a of Article VI of the Constitution?

(4) Is the word 'assess' in the second line of Page 717 of the Acts of the Forty-Fifth Legislature (Section 5, Chapter 360, supra) used in the sense of 'render'?

→ (5) Is a person, otherwise qualified, who owns property in the Harris County Flood Control District on the day of the election but which he has acquired since January 1, 1939, qualified to vote in the election when the property has been rendered for taxation by the prior owner? In some instances, persons have offered to vote at bond elections who have acquired their property since the first of January of the year in which they offer to vote, but the time for rendition is either past or such property has already been rendered to the Collector in the name of its owner on January 1. Are such persons qualified to vote, assuming them to be qualified otherwise?"

In reply to the first paragraph of your letter, you are respectfully advised that a person offering to vote in such an election must have resided in the State for one year, in the county six months, be over the age of twenty-one, must have paid a poll tax prior to February first preceding the election, or be exempt therefrom, must be a citizen of the United States and must own taxable property in the Flood Control District which he has duly rendered for taxation, and if a resident of a city of 10,000 or more, the voter exempt from poll tax must have secured a certificate showing the exemption. A person under twenty-

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one years of age, idiots and lunatics, paupers supported by the county, all persons convicted of a felony whose citizenship has not been restored by pardon, and all soldiers, marines and seamen employed in the service of the army or navy, are disqualified. Constitution of Texas, Article 6, Revised Civil Statutes of Texas, Articles 2954, et seq.

In reply to your first specific question, you are advised that this department has repeatedly ruled that an elector who duly rendered his property for taxation in 1938, and who is otherwise qualified to vote, is a duly qualified elector in February of 1939, to determine the question of issuing bonds or otherwise lending credit within the district or other political subdivision wherein the property so rendered is located. Said elector has until April 30, 1939 to render his property for that year.

In reply to your second question, you are advised that this department has held Article 2955b to be unconstitutional for the reason that it lays down additional qualifications for voters than those provided in the Constitution, and hence the real estate rolls would not determine the eligibility of a person otherwise qualified to vote in the election referred to in your letter. We feel, however, that it is the duty of the tax collector to furnish the election judges a certified list of the persons who had duly rendered property, either real or personal, for taxation, and that this list may be used by the election judges to determine the qualification of the voters.

> In reply to question 3, you are advised that under the express terms of the Constitution and the statutes of this State, we are of the opinion that the property owned must be located within the boundaries of the Harris County Flood Control District, and said property must be rendered for taxation within said district in which the otherwise qualified voter desires to vote before he is entitled to cast his ballot in said election.

In reply to question 4, we are quite sure that the Legislature intended to use the word "render" instead of the word "assess". It would be impossible for

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the elector to assess his own property. It is our understanding that you had a conversation with Mrs. Effie Wilson-Waldron, formerly of this department, in regard to the word "assess", as used in your Special Act. We are informed that she explained to you the proper wording to use in your bond transcript.

In reply to question 5, you are advised that it is our opinion that an otherwise qualified elector, who now owns land in Harris County Flood Control District, and said property having been rendered by a former owner of the land, the present owner is entitled to vote in the present bond election, because of the fact that the tax levy would be against the land and not the individual, and the present owner would be responsible for paying said tax.

Trusting that this answers your questions satisfactorily, we remain

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *David B. Bostman*
Assistant

COB-s

APPROVED:

Genard G. Mann
ATTORNEY GENERAL OF TEXAS