



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN
~~EDWARD MANN~~
ATTORNEY GENERAL

February 13, 1939

Hon. J. P. Bryan
County Attorney
Brazoria County
Angleton, Texas

Dear Sir:

Opinion No. 0-324

Re: May the Commissioners' Court call an election authorizing the issuance of bonds for the purpose of building a courthouse and jail without being petitioned and without hearing?

Your request for an opinion on the above stated question has been received by this office.

Chapters 1 and 2 of title 22, Revised Civil Statutes, provide generally for elections and the issuance of bonds for the purposes enumerated in Article 718.

Article 701 provides:

"The bonds of a county or any incorporated city or town shall never be issued for any purpose unless a proposition for the issuance of such bonds shall have been first submitted to qualified voters who are property tax-payers of such county, city or town."

Article 718, among other things, provides that the Commissioners' Court of a county may lawfully issue bonds of a county for the purpose of erecting the county courthouse and jail, or either.

Article 719 provides:

"If a majority of the property tax-paying voters, voting at such election shall vote in favor of the proposition and such bonds shall be thereby authorized and shall be issued by the Commissioners' Court."

The case, *McWilliams et al vs. Commissioners' Court of Pecos County et al*, 153 SW 368, holds among other things that:

"The determination of the Commissioners' Court is conclusive as to the necessity of the repairs or building up a new courthouse or jail in the absence of fraud."

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The case, Moore et al vs. Allred, County Attorney, 277 SW 787, holds among other things that:

"The Commissioners' Court's judgment as to necessity of issuance of bonds for erecting of a new courthouse and jail not reviewable in absence of corrupt motives."

Article 2947 reads as follows:

"The county judge, or if his office is vacant or if he fails to act, then two of the county commissioners, shall order an election for county and precinct officers, and all other elections which under the law the county judge may be authorized to order. The county judge or county commissioners, as the case may be, shall issue writs of election ordered by him or them, in which shall be stated the day or election, the office or offices to be filled by the election or the question to be voted on, or both, as the case may be."

You are respectfully advised that there is no statutory provision requiring a petition and hearing relative to an election authorizing the Commissioners' Court to issue bonds for the purpose of building a courthouse and jail, and in the absence of such statutory provision requiring a petition and hearing, it is the opinion of this Department that the Commissioners' Court may, on its own motion and order, call an election for the purpose of authorizing the issuance of bonds for the construction of the courthouse and jail, or either.

Trusting that the foregoing answers your inquiry, we remain.

Very truly yours

ATTORNEY GENERAL OF TEXAS

s/ Ardell Williams

By

Ardell Williams
Assistant

AW:AW/law

APPROVED:

s/ GERALD C. MANN
ATTORNEY GENERAL OF TEXAS