



# THE ATTORNEY GENERAL OF TEXAS

Gerald C. Mann

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

March 9, 1939

Honorable Robert D. Pean  
County Attorney  
Pecos, Texas

Dear Sir:

Opinion # 0-434  
Does Article 752h require 2/3rds  
vote in all county wide road  
bond elections?

In reply to your request of March 3rd, for an opinion of this Department covering the construction of Article 752h of the Revised Civil Statutes of 1925, and specifically covering your question which is as follows:

"Does Article 752h require 2/3rds vote in all county wide road bond elections?"

You are advised that in our opinion, Article 752h requires a 2/3rds majority vote of the resident property tax paying voters voting at such election to authorize the issuance of road bonds on the faith and credit of any county or political subdivision or road district, as the case may be.

Article 752a to Article 752y, prescribes the power and authority of any county or any political subdivision of a county, or any road district that has been, or may hereafter be created by any general or special law to issue bonds for the purposes of constructing, maintaining, and operating macadamized, graveled or paved roads, or turnpikes, or in aid thereof. This series of Articles was enacted by the Thirty-ninth Legislature, First Called Session of 1926, and at which Session Articles 726 to 752 were repealed. Under the repealed Articles, we find Article 734, which stated that:

"If at such election two-thirds of the property tax paying voters cast their ballots in favor of the issuance of bonds, the commissioners' court shall, as soon thereafter as practicable, issue said bonds on the faith and credit of said county, political subdivision or defined district, as the case may be."

We think there can be no question but that it was the intention of the Legislature to permit the issuance of bonds only upon a two-thirds majority vote of the qualified tax paying voters, voting therein, regardless of whether or not it was an election affecting a county as a whole, a defined road district, or a political subdivision,

therein, such as a commissioners precinct or a justice precinct. Such being the case, there can be little doubt but that a county wide road bond election would require a majority vote of two-thirds of the voters to authorize the issuance of bonds.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Clarence E. Crowe  
Clarence E. Crowe  
Assistant

CEC:lw:jrb

APPROVED:

/s/ Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS