



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN
~~WILL WILSON~~
ATTORNEY GENERAL

Hon. E. Y. Cunningham
County Auditor
Navarro County
Corsicana, Texas

Dear Sir:

Opinion No. 0-1231

Re: May some anticipated amount of delinquent taxes to be collected under delinquent tax contract be included in the budget?

Your request for an opinion on the question as herein stated has been received by this department.

Your letter reads in part as follows:

"We have recently made a contract with Judge Edgar Hutchins for the purpose of collecting our delinquent taxes and he started upon his duties during the month of July.

"I am now in the process of making our budget for 1940 and am wondering if it will be permissible for me to use in the budget some anticipated amount of delinquent taxes to be collected by him and if so, is there any per cent for figuring same?"

Article 689a-9, R.C.S. reads as follows:

"The County Judge shall serve as budget officer for the commissioners' court in each county, and during the month of July of each year he, assisted by the County Auditor or by the County Clerk, shall prepare a budget to cover all proposed expenditures of the county government for the succeeding year. Such budget shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget must also be so prepared as to show as definitely as possible each of the various projects for which appropriations are set up in the budget, and the esti-

mated amount of money carried in the budget for each of such projects. The budget shall also contain a complete financial statement of the county, showing all outstanding obligations of the county, the cash on hand to the credit of each and every fund of the county government, the funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenues available to cover the proposed budget and the estimated rate of tax which will be required."

Article 689a-11, R.C.S., reads in part as follows:

".....The County Judge shall, after the adoption of the county budget and prior to October 15th of each year, file with the State Comptroller at Austin, Texas, a true and correct summarized statement of the adopted budget, which statement shall show the total amount adopted for each of the several divisions of the county's activities and outstanding obligations together with true and exact copies of any revenue estimates, financial statements and balance sheets required to be contained in said budgets, and the correctness of said copies shall be sworn to by the County Judge and County Auditor, and in counties which have no County Auditor, by the County Clerk..."

Article 1666, R. C.S., referring to county auditors, reads as follows:

"He shall prepare an estimate of all the revenues and expenses, and annually submit it to the commissioners court, which court shall carefully make a budget of all appropriations to be set aside for the various expenses of the county government in each branch and department. He shall open an account with each appropriation in said budget, and all warrants drawn against same shall be entered to said account. He shall carefully keep an oversight of same to see that the expenses of any department do not exceed said budget appropriations, and keep said court advised of the condition of said appropriation accounts from time to time."

The above mentioned statutes specifically provide that the budget shall also contain a complete financial statement of the county showing the estimated revenues available to cover the proposed budget and the estimated rate of tax which will be

required and the statutes further provide that the correct summarized statement of the adopted budget filed with the State Comptroller shall show any revenue estimates.....

In view of the foregoing statutes you are respectfully advised that it is the opinion of this department that it would be permissible when preparing the county budget to anticipate some amount of delinquent taxes to be collected; however, there is no statutory provision providing or setting forth any per cent for figuring the same. It would be wholly within the discretion of the County Judge and County Auditor in determining any per cent of delinquent taxes that they reasonably anticipate to be collected.

Trusting that the foregoing answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Ardell Williams
Ardell Williams
Assistant

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APPROVED SEP 7, 1939
s/Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BWB Chairman