



THE ATTORNEY GENERAL
OF TEXAS

Gerald C. Mann

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Mr. W. K. McClain
Criminal District Attorney
Williamson County
Georgetown, Texas

Dear Sir:

Opinion Number O-1312
Re: Proceeds of bond funds of
independent school districts.

Your opinion request of September 26, 1939, has been received by this office and we quote from your letter as follows:

"Can the trustees of an independent school district pay out of a bond account, which had been legally voted by the people of that district, the fee connected with the printing of the bonds and an attorney's fee for drawing up the bonds and his opinion as to its legality?"

Article 2786, Revised Civil Statutes of Texas, 1925, as amended, provides for the issuance of bonds and also for the sale of same, the proceeds to be deposited and "disbursed only for the purpose for which the said bonds were issued. . . ."

This department has repeatedly held that all absolutely necessary expenses incurred in the issuance and sale of bonds of an independent school district may be paid out of the proceeds received from the sale of the bonds. Included in these necessary expenses are: attorney's fee for preparing bond transcript and the printing of the bonds to be presented to the Attorney General for approval. These opinions seem to be based on the fact that preparing the transcript and the printing of the bonds are a necessary incident to the issuance of the bonds because of the statutory requirement that they must be presented to the Attorney General for his approval, and, therefore, must be in the proper legal form. We concur in these opinions.

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However, the attorney's fee for an opinion as to the legality of the bond is not a necessary expense and is not incident to the issuance and sale of the bonds. A market attorney's opinion is merely a custom that has grown up among bond buyers and there is no statutory provision requiring any opinion other than that of the Attorney General. If the buyer of the bonds wants an opinion other than that of the Attorney General, then he must secure same from an attorney of his choice.

Therefore, it is the opinion of this department that an attorney's opinion as to the legality of the bonds cannot be paid out of the bond fund.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By
s/ Claud O. Boothman
Claud O. Boothman
Assistant

COB-s:egw

APPROVED OCT 14, 1939
s/ Robert E. Kepke
Acting ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee
By EWB Chairman