



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. HARR  
ATTORNEY GENERAL

Honorable O. C. Fisher  
District Attorney  
San Angelo, Texas

Dear Sir:

Opinion Number 0-1503  
Re: What disposition should  
be made of the residue in  
the sinking fund when the  
last bond is paid off?

Your letter of September 23, requesting an opinion on the above styled question, has been received by this office.

Article 2787a, Revised Civil Statutes of Texas, providing for the payment of school bonds, states:

" \* \* \* that only such tax money as has been collected by virtue of tax levies made for the specific purpose of providing a sinking fund and paying interest on the particular bonds to be redeemed shall be expended in the redemption, taking up, or paying off such bonds as provided in this Act; \* \* \*"

Article 2788, Revised Civil Statutes, with further reference to the issuance of bonds, provides:

"If said election results in favor of the issuance of bonds and the levy of a tax in payment thereof, said Board, after such result has been declared, shall make an order directing the issuance of the bonds of said district and provide for the levy and collection of a tax annually of sufficient amount with which to pay the interest and provide a sinking fund with which to pay such bonds at maturity \* \* \*."

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You are respectfully advised at the outset that the funds derived from the tax levy for the purpose of paying the interest on and retiring a particular issue of bonds may be used only for that purpose, and the diversion and use of such funds for a different purpose is unauthorized and unlawful. This department has so held on several occasions.

In your case, however, under the facts as set out in your letter of October 3, we respectfully suggest that when it is determined that the sinking fund contains enough funds to meet the requirements necessary for the payment of interest and principal maturing the next year or years without the levy of a tax, then the district may dispense with such levy for bond purposes and raise the maintenance tax proportionately. For instance, in your particular case 12 cents had been levied for the particular issue of bonds in question, and it was deemed that the sinking fund for such issue contained enough funds to take care of the requirements for the coming year. Such 12 cents, instead of being levied for bond purposes, could be levied for maintenance purposes, thereby raising the maintenance tax for that year. For the following year then just make a sufficient levy to pay the principal and interest, and in this way you will not have a residue in the sinking fund after the last bond is paid.

Trusting that this satisfactorily answers your question, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Claud O. Boothman*  
 Claud O. Boothman  
 Assistant

COB-s

APPROVED OCT 14 1939

*Robert E. Griffin*

*Atty*

ATTORNEY GENERAL OF TEXAS

