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AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

HB 20th  
47th Leg.  
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Honorable Tom A. Craven  
County Auditor  
McLennan County  
Waco, Texas

Dear Sir:

Opinion No. 0-2015  
Re: Authority of McLennan County  
to participate in the U. S.  
Government plan of surplus  
commodities distribution.

Your recent request for an opinion of this department on the questions as are herein stated has been received.

The questions submitted in your inquiry are as follows:

"(1). Can McLennan County, out of its surplus general fund, or out of any other available funds, deposit its proportionate part of the money to create a revolving fund for the purchase of Food Stamps, under the plan hereinafter outlined, such money to be a part of a revolving fund, which will at the termination of the Food Stamp program be returned intact to McLennan County?"

"(2). Can McLennan County, out of its funds, pay its proportionate part of the cost of salary for persons employed to operate the Food Stamp Plan?"

"(3). Can McLennan County, out of its funds, pay its proportionate part of the cost of rentals for facilities in which to house the Food Stamp Plan offices?"

Referring to "The Food Stamp Plan" we quote from your letter as follows:

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"A new way of distributing surplus foods is being tried out. Instead of giving surplus commodities to States, counties, and cities which in the past have distributed them to people receiving public aid, the Federal Government will give food order stamps to these people directly. The stamps, which will be colored blue, can be taken to grocery stores where they can be used to obtain surplus foods as additions to the present family food supplies.

"Everyone currently receiving surplus commodities will now be eligible to participate in the surplus commodity food stamp plan. In addition, people working on WPA jobs, and all other persons receiving or certified for any form of public aid, can get the stamps if they want them,

"The food stamp plan is being carried out by the Department of Agriculture in cooperation with city, county, and State welfare agencies and the grocers. The idea is to make use of some of the farm products of which there has been a surplus because people did not have the money to buy them. Many families have been going without enough of the foods that are needed to keep children and grown-up people healthy, at the very same time that farmers had more of these foods than housewives could buy.

"The main idea of the food stamp plan is the same as the idea of the commodity distribution that people are familiar with -- to use part of the farm surplus to give city families a chance to have better balanced diets. However, the stamp plan is different from the old distribution plan as it operated.

"If this plan is adopted in McLennan County, in the future, there will not be any surplus commodity depots. The Department of Agriculture will name the surplus food products. People using the stamps can go right to the grocery stores that are cooperating in the program and use the surplus food order stamps to get any of these surplus commodities that they want. People using the stamps will have a wider variety of surplus commodities to choose from than they had at the distribution depot.

"Two methods of distributing the surplus food order stamps will be used. One group, including those who are at work on WPA projects and those who are receiving, or certified as eligible to receive, public assistance, aid to the dependent children, and aid to the blind, will be eligible to get the free blue surplus stamps if they buy orange colored food order stamps, with part of their WPA or assistance payments. These orange colored stamps, which will be good for the purchase of any food usually sold in a grocery store, are to be bought at the rate of approximately \$1 a week per person for each member of the family.

\*For each two weeks pay period, therefore, the eligible person would have to purchase orange colored stamps at the rate of \$2 per member of his family. Their use is to insure that regular food purchases are kept up, so that food secured with the blue surplus stamps will be in addition to and not in place of these regular purchases. One blue surplus stamp will be given free with each two orange stamps bought. Each stamp, whether blue or orange, will be good for 25 cents worth of food. For each \$1 worth of orange stamps bought, the family will receive 50 cents worth of free blue stamps. For example, a family which buys \$8 worth of orange stamps will get \$4 worth of blue surplus stamps without extra cost.

Section 1 of Article 2372e-2, Vernon's Annotated Civil Statutes, reads:

"The County Commissioners Courts and the City Commission of any incorporated town or city of this State are hereby authorized to lease, rent, or provide office space for the purpose of aiding and cooperating with the agencies of the State and Federal Governments engaged in the administration of relief to the unemployed or needy people of the State of Texas, and to pay the regular monthly utility bills for such offices, such as lights, gas, and water; and when in the opinion of a majority of a Commissioners Court of a county such office space is essential to the proper administration of such agencies of either the State or Federal Governments, said Court is hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices

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out of the County's General Fund by warrants as in the payment of such other obligations of the county."

We quote from Texas Jurisprudence, Volume 11, pp. 564 and 565, as follows:

"Commissioners' courts are courts of limited jurisdiction, in that their authority extends only to matters pertaining to the general welfare of their respective counties and that their powers are only those expressly or impliedly conferred upon them by law, -- that is, by the constitution and statutes of the state." See the cases of Sun Vapor Electric Light Co. v. Keenan, 30 S. W. 868; Hill County v. Hamilton, 273 S. W. 292; Seward v. Falls County, 246 S. W. 728.

We quote from the case of Commissioners' Court v. Wallace, 15 S. W. (2d) 535, as follows:

"The Commissioners Court is a creature of the State Constitution and its powers are limited and controlled by the Constitution and the laws as passed by the Legislature."

We are unable to find any authority that expressly or impliedly authorizes the Commissioners' Court to do any thing mentioned in your first two questions. Therefore your questions 1 and 2 are respectfully answered in the negative.

Article 2372e-2, supra, specifically authorizes the county commissioners' court to lease, rent, or provide office space for the purpose of aid and cooperating with the agencies of the State and Federal Governments engaged in the administration of relief to the unemployed or needy people of this State and to pay the regular monthly utility bills for such offices, such as lights, gas, and water; when in the opinion of a majority of the commissioners of said court of the county such office space is essential to the proper administration of such agencies of either the State or Federal Governments. As we understand the facts stated in your inquiry "The Food Stamp Plan" is operated under the supervision of the Federal Government. Therefore your third question is answered in the affirmative.

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Trusting that the foregoing fully answers your inquiries, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

BY *Ardell Williams*  
Ardell Williams  
Assistant

AW:LM

APPROVED MAR 12, 1940

*Ernest B. Mann*  
ATTORNEY GENERAL OF TEXAS



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