



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable John D. Reed, Commissioner  
Bureau of Labor Statistics  
Austin, Texas

Dear Sir:

Opinion No. 0-3712  
Re: Under Sec. 17 and Sec. 18,  
Boiler Inspection Law, would  
the State Treasurer be allowed  
to accept warrants drawn on  
the General Revenue Fund for  
deposit in the Boiler Inspec-  
tion Fund?

This is to acknowledge your request of recent date  
for our opinion on the above question.

We quote portions of your letter:

"In carrying out the duties of the Texas  
Boiler Inspection Law (House Bill 352--45th  
Legislature, as amended by House Bill 419--46th  
Legislature) it is necessary that we inspect  
and pass on certain steam boilers used by va-  
rious State institutions throughout the State.

"The statutes set out a prescribed fee  
for the inspection of these boilers. Most of  
the State institutions who have boilers that  
are required to be inspected and passed are  
complying with the requirements of the law;  
however, some institutions are submitting to  
this Department for payment of the statutory  
fee warrants drawn on the General Revenue Fund.

"Section 17 of the Boiler Inspection Law  
states: 'The funds collected under the pro-  
visions of this Act shall be paid into the  
State Treasury and kept in a special fund to  
be known as the "State Boiler Inspection Fund"

and shall be paid out for salaries, traveling expenses and other necessary expenses specified in this Act and upon proper account duly approved by the Commissioner.'

\* \* \*

"Will you please advise us if, under Section 17 and Section 18 of the Boiler Inspection Law, the State Treasurer would be allowed to accept these warrants for deposit into the Boiler Inspection Fund. Also please advise us if you can find that he is not authorized to accept these warrants, if we would be justified in refusing to accept General Revenue warrants to cover the statutory fee for boiler inspection as prescribed in this Act."

In addition to Sections 17 and 18 of the Boiler Inspection Law cited by you, we direct your attention to Section 12 of the same Act. (Art. 5221c, Vernon's Annotated Civil Statutes, same sections.) These sections require payment of all fees and funds collected under provisions of the Boiler Inspection Law into the State Treasury to be kept in a special fund to be known as the "State Boiler Inspection Fund."

The statutes prescribe the manner and method of making deposits into the State Treasury. A deposit warrant must be obtained from the Comptroller of Public Accounts, in accordance with the provisions of Article 4353, Vernon's Annotated Civil Statutes, which forbids receipt of any deposit to any account, except upon such deposit warrant. Article 4354, Vernon's Annotated Civil Statutes, provides for the issuance of deposit receipts by the Treasurer. Article 4370 requires the Treasurer to receive, on the warrants of the Comptroller "all moneys which shall from time to time be paid into the State Treasury" etc., providing for the issuance and disposition of duplicate and triplicate receipts.

After a careful examination of the applicable statutes, we are unable to find authority for the State Treasurer to accept the warrants under consideration until they are regularly called for payment. Because of the deficit in the General Revenue Fund, no "funds," or "moneys" are available for deposit to the credit of the Boiler Inspection Fund upon such warrants. Until revenues accumulate sufficiently to pay same, therefore, the Treasurer could not properly credit the State Boiler Inspection Fund with

such warrants.

We have been unable to find justification for your office to refuse to accept the General Revenue Warrants when tendered you by the State institutions. Such warrants, when regularly issued, are valid existing obligations of the State; and while the Treasurer is neither required nor authorized to redeem them in cash until funds are available with which to pay, we are aware of no law, express or implied, to prevent you holding them to be cashed and the proceeds duly and properly deposited to the credit of the State Boiler Inspection Fund upon receipt by the Treasurer of sufficient funds for redemption.

Trusting that the above satisfactorily answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

*Benjamin Woodall*  
By  
Benjamin Woodall  
Assistant

APPROVED JUL 11, 1941

*Gross Miller*

FIRST ASSISTANT  
ATTORNEY GENERAL

BW:RS

