



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**PRICE DANIEL
ATTORNEY GENERAL**

June 30, 1948

Hon. George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Opinion No. V-622

Re: The authority of the
Automatic Tax Board
to reduce or eliminate
the 2¢ ad valorem levy
for the Confederate
Pension Fund.

Dear Mr. Sheppard:

You request the opinion of this office upon the following, which is quoted from your letter of May 27, 1948:

"Articles 7041 and 7043, R. C. S., 1925, create and prescribe the duties of the Automatic Tax Board in calculating the ad valorem tax to be levied and collected each year for State and free school purposes.

"Article 7043 sets out a specific formula to be followed by the Automatic Tax Board in calculating the rates to be levied for the different funds: 'In calculating said rates the Board shall calculate the same by the following rules and upon the following basis:....'

"Section 17 of Article 7 of the Constitution reads, in part, as follows: 'In lieu of the state ad valorem tax on property of Seven (7¢) Cents on the One Hundred (\$100.00) Dollars valuation heretofore permitted to be levied by Section 51 of Article 3, as amended, there is hereby levied, in addition to all other taxes permitted by the Constitution of Texas, a state ad valorem tax on property of two (2¢) cents on the One Hundred (\$100.00) Dollars valuation for the purpose of creating a special fund for the payment of pensions for services in the Confederate army and Navy, frontier organizations,

and the militia of the State of Texas, and for the widows of such soldiers serving in said armies, navies, organizations or militia; provided that the Legislature may reduce the tax rate hereinabove levied.'

"There is sufficient monies in the Confederate Pension Fund in the Treasury to meet all claims that may arise or accrue against said fund for the ensuing bi-ennium and for a period of years thereafter. The question naturally arises, therefore, as to whether or not the Automatic Tax Board has the power to reduce the 2¢ levy provided for in Section 17 of Article 7 of the Constitution above quoted.

"I shall therefore thank you to advise me, as a member of the Automatic Tax Board, as to whether said Board would be authorized to reduce or eliminate the 2¢ levy, above mentioned, for the ensuing year."

Section 17 of Article VII of the Constitution provides that in lieu of the seven (7¢) cents on the One Hundred (\$100.00) Dollars valuation for the payment of pensions said tax shall be two (2¢) cents per One Hundred (\$100.00) Dollars valuation instead of seven (7¢) cents as theretofore. This two (2¢) cents is expressly levied by the Constitution as was the seven (7¢) before. It is observed that this provision of the Constitution further provides: "provided that the Legislature may reduce the tax rate hereinabove levied." This rate, therefore, may not be reduced except by the Legislature, and the Automatic Tax Board has no authority to eliminate or reduce this rate. The fact that there presently exists a surplus in the Confederate Pension Fund sufficient to meet all demands for the present biennium and several years thereafter is immaterial. Until the Legislature takes some effective action to reduce or eliminate this rate, it continues an annual tax liability upon all property in this State subject to ad valorem taxes.

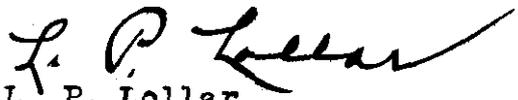
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SUMMARY

The Automatic Tax Board has no authority to reduce or eliminate the two (2¢) cents levied by Section 17 of Article VII of the Constitution for Confederate pensions.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By 
L. P. Lollar

APPROVED:


ATTORNEY GENERAL

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