



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

August 13, 1953

Hon. Jesse James
State Treasurer
Capitol Station
Austin, Texas

Letter Opinion MS-84

Re: Legality of proposed change
in accounting procedure by
the State Treasurer.

Dear Mr. James:

You request the opinion of this office upon several questions presented in your letter of July 31, 1953, which we quote in full in order to achieve a better understanding of the problem presented. Since your request was received in this office you have submitted certain additional information which we shall quote at the end of your letter.

Your opinion request is as follows:

"In the 1951 audit report on the State Treasury Department, the State Auditor recommended that the accounting procedure presently used in recording paid warrants drawn against the various special funds in the Treasury be changed. In the system now used our records show each day for each separate fund the amount of warrants issued, the amount of warrants paid, the amount of warrants cancelled, the receipts deposited, the transfers made to and from each fund, the amount of warrants outstanding, the cash fund balances and the net fund balances. The proposed plan would group most of the warrants issued against the special funds into one control for the above record, but omitting from the record on each individual fund the amount of warrants paid each day, the amount of warrants outstanding and the cash balances in each fund. The receipts, warrants issued or cancelled and the net balances to the credit of the fund would be shown under the proposed plan.

"At the time the plan was proposed it was recognized by all that the provisions of Article

4382, Texas Revised Civil Statutes, prohibited the adoption of the plan proposed. The portion of Article 4382 which prevented the adoption of the plan read: 'Warrants shall be grouped by classes and separate totals of warrants paid from each fund shall be shown, as well as the grand total of all warrants paid each day.'

"During the recent session of the Legislature, House Bill No. 319 was enacted for the purpose of amending Article 4382 so that the pertinent part now reads: 'Warrants shall be grouped by classes and separate totals of warrants paid from each class shall be shown, as well as the grand total of all warrants paid each day.' The enactment of this bill apparently corrected the restrictions against grouping the funds together in recording the amounts of warrants paid each day.

"However, while studying the proposed plan, we have had the proposition put that possibly other Statutes would prohibit the adoption of this plan. Article 4372 provides in part, 'The Treasurer shall keep true accounts of the receipts and expenditures of the public monies of the Treasury . . .'

"In connection with Article 4372 we request your opinion on the following question:

"1. Legally, are the funds represented by outstanding and unpaid warrants in the Treasury, or do they cease to be in the Treasury when the warrant is written?

"2. If the funds are in the Treasury, then could the Treasurer, under the statutes, cease to keep accounts on the cash fund balances to the credit of each individual fund, thereby eliminating the necessity for showing the amount of warrants paid against each fund each day?

"Article 4385 provides 'The Treasurer shall charge the daily totals of the general warrants, pension warrants, special warrants and all classes of warrants to the respective fund and control accounts in the general ledger to which they apply.'

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Will you please advise this department as to whether Article 4385 would prohibit the adoption of the change in accounting procedure as outlined above.

"We also would like your opinion as to the liability of the Treasurer, if any, should the monies of one fund be erroneously placed to the credit of another fund and be expended before the error is discovered and corrected."

The additional information submitted by you is as follows:

"Under Number 2 on the second page of this request a question is asked which would indicate that the cash balances under the proposed change in the fund accounting system would not provide for retention of the cash balances of each individual fund. Actually under the new procedure a free cash balance would be indicated on the fund sheet. This balance would be identical in amount with the net fund balance. Only the portion of cash reserved to pay outstanding warrants would be grouped into a common fund ledger control account.

"With reference to Article 4385, the fund ledger balances are credit balances, and under the procedure as now employed there is only one charge against the fund for warrants. This charge occurs at the time of the issuance of the warrant, at which time the fund is decreased by the warrant amounts. Any other transaction with regard to the warrants shows as payment, for example, would not affect the fund balance. The same procedure will be followed exactly under the proposed change as is now in use."

You have advised us orally that you are not presently concerned with question number one, hence it is eliminated and will not be discussed.

The 53rd Legislature amended Article 4382 of the Revised Civil Statutes of Texas, 1925, as amended by House Bill 493, Chapter 242, Acts 42nd Legislature, Regular Session, 1931. This statute, before amended, read as follows:

"The Treasurer shall keep registers of warrants issued, one for each class of warrants. The Comptroller shall furnish lists of warrants issued, which lists shall be compared with the warrants and shall constitute the Treasurer's registers of warrants issued. The amounts of warrants issued shall be added by the Treasurer and proved against the totals of the warrant registers. The date of payment of all warrants shall be stamped on the above registers. The Treasurer shall keep a 'warrants paid register.' In this register the warrants shall be entered each day when paid; the number and amount of each warrant paid being entered. Warrants shall be grouped by classes and separate totals of warrants paid from each fund shall be shown, as well as the grand total of all warrants paid each day. The Treasurer shall furnish to the Comptroller each day a copy of the warrants paid register showing the warrants paid. The Treasurer shall keep a register of warrants cancelled, on which shall be entered the details of all warrants cancelled."

The only change made by the amendment to this Article by the 1953 amendment was to substitute for the word "fund", the word "class".

The purpose of this change was to lighten the accounting work of the State Treasurer by reducing the necessity of keeping separate accounts for all funds and requiring only that accounts be kept in separate accounts according to the classification of the warrants. In brief, this amended statute permits the Treasurer to group under one account all warrants of the same classification. That is to say, for example, that all warrants appropriately classified as special fund warrants might be carried under one account instead of separate accounts for each special fund as is presently the practice under the prior statute. The same thing would apply to the classification of other warrants where more than one fund might be involved. We do not think that the amendment to Article 4382, V.C.S., is in conflict with Article 4372, V.C.S., and Article 4385, V.C.S. Especially is this true in view of the statement that it is not contemplated that any substantial change will be made in the prevailing practice of the Treasurer's Office in keeping the accounts in the manner prescribed by Article 4385, V.C.S.

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You are therefore respectfully advised that we see no impediment which would be encountered by you in complying with the 1953 amendment to Article 4382 by which you keep separate accounts of warrants by classification in lieu of funds as required by this Article before the 1953 amendment.

You also ask the question "We also would like your opinion as to the liability of the Treasurer, if any, should the monies of one fund be erroneously placed to the credit of another fund and be expended before the error is discovered and corrected." It would be difficult for us to answer this question categorically. We think the possibility of this situation occurring is so remote that it would not be proper for us to attempt to answer a question that rests upon future contingencies and which of necessity would be governed by the facts attendant upon the particular circumstances.

Yours very truly,

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