



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

June 9, 1958

Honorable Robert S. Calvert
Comptroller of Public Accounts
Austin, Texas

Opinion No. WW-448

Re: The authority of the
Comptroller of Public
Accounts to draw the
warrants necessary to
pay and redeem certain
Permanent University
Fund Bonds, dated July 1,
1949, in advance of the
due dates, so as to en-
able the institutions to
refund the balance of
said 1949 bonds.

Dear Mr. Calvert:

Your request for our opinion reads, in part, as follows:

"We have received a letter with enclosures from the University of Texas, asking whether or not this office will draw the warrants necessary to pay and redeem certain Permanent University Fund Bonds, dated July 1, 1949, in advance of the due dates, so as to enable the University to refund the balance of said 1949 bonds. An almost identical letter with enclosures has been received from the Agricultural and Mechanical College of Texas."

With your request we received and have examined the letters, the copy of the proposed resolution authorizing the refunding of the 1949 bonds, and the copy of the proposed escrow agreement with the bank, the principal place of payment of these bonds, which you received from the University of Texas and the A. and M. College of Texas in reference to the refunding of the Permanent University Fund Bonds, dated July 1, 1949, and the advance payment and redemption of certain of said bonds in order to accomplish the refunding.

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We have also referred to the proceedings relating to the issuance of all said 1949 bonds, including the resolution authorizing same, which are on file in this department.

The procedures for paying and redeeming said 1949 bonds are set forth in Sections 14b and 14c of the resolutions authorizing said bonds, respectively. Simply stated, these resolutions provide that the Comptrollers of the respective institutions are required to file vouchers with your office covering the amounts required for paying or redeeming the bonds. These vouchers are to be filed on or before certain dates.

It is our opinion that the proposed vouchers may be filed and the warrants based thereon drawn by you in advance of the usual times, and that such procedure complies with law and the resolutions authorizing the 1949 bonds.

The legality of this procedure is further shown by the provisions of Chapter 255, page 546, Acts of 1957, Fifty-fifth Legislature of Texas, Regular Session, which authorizes the institutions here involved to refund the 1949 bonds on such "terms and conditions" as may be determined by said institutions. The proposed resolutions authorizing the refunding required that the unrefunded 1949 bonds be paid and redeemed in advance in the manner contemplated. In fact, the refunding could not be accomplished legally if the proposed procedures were not followed.

In July or August, 1958, when the vouchers are filed with you covering —

- (1) interest on all said bonds coming due January 1, 1959;
- (2) interest on all said bonds coming due July 1, 1959 and the principal of the bonds maturing July 1, 1959;
- (3) the principal plus a premium of 2% of the bonds being redeemed prior to maturity, on July 1, 1959, this being the redemption price,

we are of the opinion that you are authorized to immediately transfer sufficient moneys for such purpose from the respective interests of such institutions in the Available University Funds to the credit of the respective Permanent University Fund Bonds Interest and Sinking Funds of such institutions, and to draw and deliver the necessary warrants on said Interest and Sinking Funds payable to the Texas National Bank of Houston, being the principal place of payment and redemption for such bonds.

SUMMARY

The Comptroller of Public Accounts is authorized to draw the warrants necessary to pay and redeem certain Permanent University Fund Bonds, dated July 1, 1949, in advance of the due dates, so as to enable the institutions to refund the balance of said 1949 bonds.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 

Howard W. Mays
Assistant Attorney General

HWM-s

APPROVED:

OPINION COMMITTEE
George P. Blackburn, Chairman

J. Arthur Sandlin
Richard B. Stone

REVIEWED FOR THE ATTORNEY GENERAL
By: W. V. Geppert