



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

May 12, 1959

Hon. Wardlow Lane, Chairman
Jurisprudence Committee
Senate of the State of Texas
Austin, Texas

Opinion No. WW-624

Re: Constitutionality of
H. B. 192 of the 56th
Legislature, relating
to delinquent tax no-
tices in counties hav-
ing a population of
175,000 or less.

Dear Mr. Lane:

You have requested our opinion as to the constitutionality of H. B. 192 of the 56th Legislature. The pertinent provisions of the bill are as follows:

"Section 1. In all counties of this State having a population of one hundred and seventy-five thousand (175,000) or less whenever the collector of taxes in a county mails to the owner of any real property a statement of current taxes due against such property, he shall include with such statement, when applicable, a notice showing that delinquent taxes are due and unpaid against said property.

"Section 2. . . .

"Section 3. . . .

"Section 4. The fact that many taxpayers are paying current taxes on property without the knowledge of any tax delinquencies on the property on which such taxes are being paid creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall be in force and effect from and after its passage, and it is so enacted."

Engrossed Rider Number 1 adds the following provision:

"The provisions of this Act shall not apply to counties with less than forty thousand (40,000) population."

House Bill 192 imposes the duty of mailing delinquent tax notices with current tax statements upon tax collectors in counties having a population of 40,000 to 175,000. According to the last Federal census (1950) this category includes approximately twenty-seven counties.

Article III, Section 56, of the Texas Constitution provides in part:

"The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, . . .

"Regulating the affairs of counties. . .

"Creating offices, or prescribing the powers and duties of officers, in counties. . ."

Resort to population brackets for the purpose of classifying subjects for legislation is permissible where the spread of population is broad enough to include or segregate a substantial class, and where the population bears some real relation to the subject of legislation and affords a fair basis for the classification. Miller v. El Paso County, 136 Tex. 370, 150 S.W. 2d 1000, (1941). There appears to be no reason why the counties segregated by House Bill 192 are distinct in any substantial manner from other counties in this State. There is nothing peculiar about a county having between 40,000 and 175,000 inhabitants as regards the purpose of the Bill, as stated in Section 4 thereof. Consequently, you are advised that the attempted classification is unreasonable and bears no relation to the objects sought to be accomplished; the bill amounts to a local or special law within the prohibition of Article III, Section 56, of the Texas Constitution, and is void.

For additional authorities, see: Smith v. Decker, 312 S.W. 2d 632 (Tex. Sup. Ct. 1958); Rodriguez v. Gonzales, 148 Tex. 537, 227 S.W. 2d 791 (1950); and Attorney General's Opinion No. O-5326 (1943), enclosed herewith, which was quoted extensively by Oakley v. Kent, 181 S.W. 2d 919 (Tex. Civ. App. 1944).

SUMMARY

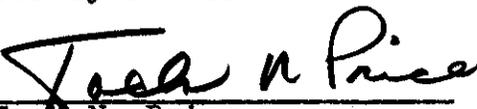
H. B. 192, 56th Leg., requiring the collector of taxes in counties having a population of 40,000 to 175,000 to mail

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notices of delinquent taxes with statements of current taxes due, is a local or special law within the prohibition of Article III, Section 56, of the Texas Constitution, and is void.

Very truly yours,

WILL WILSON
Attorney General

By 
Jack N. Price
Assistant

JNP:bct

APPROVED:

OPINION COMMITTEE:
Geo. P. Blackburn, Chairman

J. C. Davis, Jr.
Leonard Passmore
John Reeves

REVIEWED FOR THE ATTORNEY GENERAL

By: W. V. Geppert