



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

May 9, 1961

Honorable Ben Ramsey
Lieutenant Governor
Capitol Station
Austin 11, Texas

Opinion No. WW-1048

Re: Whether the Legislature
may retire outstanding
bonds issued by Texas
Southern University, and
related questions.

Dear Sir:

You have requested an opinion on the following ques-
tions:

"1. Would an appropriation by the Legislature from the General Revenue Fund for the retirement of outstanding bonds issued by Texas Southern University pursuant to Article 2643g, be a valid and effective means of liquidating such indebtedness? One aspect of this question is whether such outstanding bonds are callable without the consent of the bond-holders.

"2. If the method indicated in the question above is a valid and effective means, would it result in freeing up Texas Southern University's share of the College Building Fund for the construction of additional buildings now needed at that institution?

"On both questions, the last clause in Section 17, Article 7 of the Constitution appears to be pertinent.

"3. If, in your consideration of questions 1 and 2, you find the method to be of doubtful validity

or effectiveness, would the enactment of a new bill containing for Texas Southern University provisions similar to Article 2643g, be a valid and effective way of assuring that University with available moneys for building construction purposes?"

Section 17 of Article VII of the Constitution, as amended in 1956, establishes a state ad valorem tax for the purpose of creating a special fund for buildings and improvements at certain State institutions of higher learning, to be allocated and periodically reallocated by the Comptroller of Public Accounts to the participating institutions. It further provides, in part, as follows:

". . . all such designated institutions of higher learning which participate in the allocation or re-allocation of such funds shall not thereafter receive any General Revenue funds for the acquiring or constructing of buildings or other permanent improvements for which said Five Cent (5¢) ad valorem tax is herein provided, except in case of fire, flood, storm, or earthquake . . . Chapter 330, Acts, Regular Session, Fifty-third Legislature ~~Article~~ 2643g, Vernon's Civil Statutes] is repealed upon the effective date of this Amendment; but the principal and interest due on any obligations incurred by the governing boards of Lamar State College of Technology at Beaumont and of Texas Southern University at Houston under the provisions of said Chapter 330 prior to its repeal shall be paid from the allocations to Lamar State College of Technology and Texas Southern University from the funds raised by the Five Cent (5¢) ad valorem tax levy as provided in this Section, . . ."

In reply to your first question, it is our opinion that these provisions prohibit an appropriation from the General Revenue Fund for the retirement of outstanding bonds issued by Texas Southern University pursuant to Article 2643g.

Honorable Ben Ramsey, page 3 (WW-1048)

Since your first question is answered in the negative we do not reach the second question.

We have reviewed the provisions of Article 2643g, V.C.S., which was repealed upon the effective date of the 1956 amendment of Section 17 of Article VII of the Constitution of Texas, and your third question is answered in the affirmative. Bonds were heretofore authorized and issued by Texas Southern University for building construction purposes under Article 2643g, V.C.S., and we see no legal impediment to such issuance in the future under a new statute containing similar provisions.

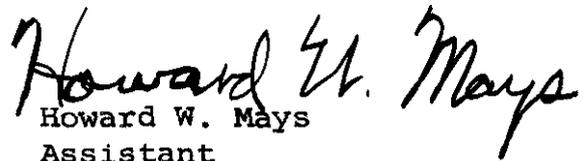
SUMMARY

The outstanding bonds of Texas Southern University cannot be retired by an appropriation from the General Revenue Fund as Section 17 of Article VII of the Constitution provides that such obligations shall be paid from the Five Cent (5¢) ad valorem tax provided therein. There would be no legal bar to issuance of bonds by the University under a new statute similar to Article 2643g, V.C.S., now repealed.

Yours very truly,

WILL WILSON
Attorney General of Texas

By


Howard W. Mays
Assistant

HWM-s

Honorable Ben Ramsey, page 4 (WW-1048)

APPROVED:

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REVIEWED FOR THE ATTORNEY GENERAL
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