



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

March 28, 1963

Honorable W. C. Lindsey
Criminal District Attorney
Jefferson County
Beaumont, Texas

Opinion No. C-44

Re: Designation of drainage
district depositories.

Dear Mr. Lindsey:

You have requested an opinion on the following questions:

"1. If the commissioners of a drainage district failed to exercise their discretion of providing for a district depository for the funds of such district, must the county treasurer transfer such funds to the county depository?

"2. May the commissioners of a drainage district exercise their discretion of providing for a district depository by entering into a contract with a banking corporation in April of the year following a general election, if the banking corporation is not the county depository?"

Article 8149, Vernon's Civil Statutes, is the statutory enactment which authorizes separate depositories for drainage districts, which provides:

"The commissioners, in their discretion, may provide for a district depository for the funds of such district, by complying in all respects with the laws governing the designation of county depositories. Such depository shall give a good and sufficient bond, approved by the commissioners, as provided by law for depositories of county funds. All powers vested in the Court as to the designation of county depositories are hereby vested in the commissioners as to the funds of the district. Id." (Emphasis added).

As this Article expressly vests the same powers in the drainage districts as are vested in the commissioners court

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with regard to designation of depositories, your attention is directed to the following statutes which we deem applicable.

Article 2544, Vernon's Civil Statutes, reads in part as follows:

"The Commissioners Court of each county is hereby authorized and required at the February Regular Term thereof next following each general election to enter into a contract with any banking corporation, association or individual banker in such county for the depository of the public funds of such county in such bank or banks. . . ."

Article 2549, Vernon's Civil Statutes, states in part:

". . . it shall be the duty of the county treasurer of said county immediately upon the making of such order, to transfer to said depository all the funds belonging to said county, as well as all funds belonging to any district or other municipal subdivision thereof not selecting its own depository . . ."

Article 2555, Vernon's Civil Statutes, states:

"If for any reason, no selection of a depository be made at the time provided by law, the Commissioners Court may, at any subsequent time after twenty (20) days' notice, select a depository or depositories in the manner provided for such selection at the regular time; and the depository or depositories so selected shall remain the depository or depositories until the next regular time for selecting a depository, unless the order selecting and naming such depository be revoked for lawful reasons." (Emphasis added).

In construing these statutes together, we are of the opinion that, in answer to your first question, Article 2549 would require the county treasurer to deposit the drainage district funds into the county depository where a drainage district has not selected its own depository.

However, in view of the fact that the commissioners of drainage districts are vested with all powers vested in the Commissioners Court in regard to the designation of a depository, it is our opinion that Article 2555, Vernon's Civil

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Statutes, provides for a selection of the depository at any subsequent time. Therefore, it is our opinion in answer to your second question that the commissioners of a drainage district may select a district depository at any time subsequent to the February term.

SUMMARY

(1) If the commissioners of a drainage district fail to provide for a district depository, Article 2549, Vernon's Civil Statutes, requires that district funds be transferred into the county treasury.

(2) The commissioners of a drainage district may select a district depository at any time under the provisions of Article 2555, Vernon's Civil Statutes.

Sincerely,

WAGGONER CARR
Attorney General

By


Paul Phy
Assistant

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APPROVED:
OPINION COMMITTEE

W. V. Geppert, Chairman
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APPROVED FOR THE ATTORNEY GENERAL
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