



THE ATTORNEY GENERAL  
OF TEXAS

AUSTIN, TEXAS 78711

WAGGONER CARR  
ATTORNEY GENERAL

August 29, 1966

Mr. D. C. Greer  
State Highway Engineer  
Texas Highway Department  
Austin, Texas

Opinion No. C-746

Re: Whether a road district  
may be formed which en-  
compasses territory lying  
in more than one county  
and related questions.

Dear Mr. Greer:

In a recent letter to this office you requested an opinion in regard to the above referenced matter. We quote from your letter as follows:

"The question has arisen as to whether a road district whose area lies in more than one county can be legally formed for the purpose of a bond issue to purchase right of way for a highway on the State Highway System.

"We would appreciate an opinion on the following questions:

"1. Can a road district whose area lies in more than one county be legally formed?

"2. If the answer to question number one is in the affirmative, then by what governmental body can such a road district be formed?

"3. If the answer to question number one is in the affirmative, would such a road district have the legal powers to instigate a bond issue for the purpose of purchasing right of way for a highway on the State Highway System?"

Article 778a, Vernon's Civil Statutes, provides as follows:

"That, pursuant to authority conferred by Section 52, of Article 3, of the Constitution, any number of adjoining counties within this State are hereby empowered and authorized to issue bonds in any amount not to exceed one-fourth of the assessed valuation of the real property of the territory included within such counties, and to levy and collect annually ad valorem taxes to pay the interest upon such bonds and to provide a sinking fund for the redemption thereof, for the purpose of the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof. The phrase 'any number of adjoining counties' as used in this Act, shall be construed to mean 'two or more counties contiguous to each other.'"

In answer to your first question, this office held in Attorney General's Opinion O-4214 (1941) that pursuant to Article 778a, quoted above, road districts may be formed which encompass territory in more than one county; provided however, that the entire area of each county making up any such road district must be included and provided further that the counties involved must be contiguous to each other. We reaffirm the position taken in that opinion.

In your second question you ask: ". . . by what governmental body can such a road district be formed?" We refer you to Articles 778a through 778p of Vernon's Civil Statutes which detail the procedure to be followed in establishing such a multi-county road district.

Your third question asks: ". . . would such a road district have the legal powers to instigate a bond issue for the purpose of purchasing right of way for a highway on the State Highway System?" Article 6674q-4, Vernon's Civil Statutes, provides in part that:

"All further improvement of said State Highway System shall be made under the exclusive and direct control of the State Highway Department and with appropriations made by the Legislature

out of the State Highway Fund. Surveys, plans and specifications and estimates for all further construction and improvement of said system shall be made, prepared and paid for by the State Highway Department. No further improvement of said system shall be made with the aid of or with any moneys furnished by the counties except the acquisition of right-of-ways which may be furnished by the counties, their subdivisions or defined road districts. . . ." (Emphasis added.)

The above quoted statute clearly authorizes road districts to acquire rights-of-way for use by the State Highway Department in improving and extending the State Highway System. Multi-county districts are not excepted from the provisions of this statute and would thus fall within the definition of the phrase "defined road districts."

The procedures which must be followed by such a multi-county road district in order to issue bonds are set forth in Articles 778a through 778p of Vernon's Civil Statutes.

S U M M A R Y

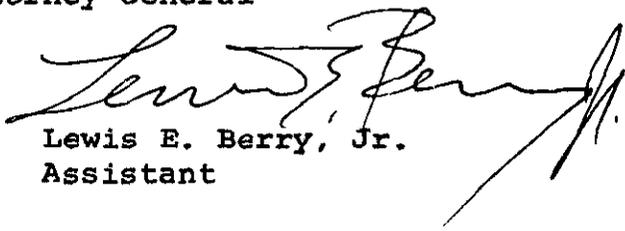
A road district may be formed which encompasses territory lying in more than one county provided that the entire area of each county making up any such road district must be included and provided further that the counties involved must be contiguous to each other.

Road districts may acquire rights-of-way for use by the State Highway Department in improving and extending the State Highway System.

Yours very truly,

WAGGONER CARR  
Attorney General

By:

  
Lewis E. Berry, Jr.  
Assistant

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APPROVED:  
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