



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

CRAWFORD C. MARTIN

ATTORNEY GENERAL

October 18, 1971

Honorable Ted Butler
Criminal District Attorney
Bexar County Courthouse
San Antonio, Texas 78204

Opinion No. M-974

Re: May the date of selection
of a depository of Bexar
County Hospital District be
changed from February to
October and a related ques-
tion.

Dear Mr. Butler:

You have requested our opinion concerning whether the Bexar County Hospital District may legally select a depository in October instead of February.

In the past the Hospital District has selected its depository in the month of February of even numbered years. Section 10 of Article 4494(n), Vernon's Civil Statutes, in part, provides that the Hospital District shall select a depository "in the manner provided by law for selection of county depositories; and such depository shall be the depository of such District for a period of two years thereafter, until its successor is selected and qualified."

The statutes relative to county depositories require the selection by the Commissioner's Court at the February Regular Term. Article 2544, et seq., Vernon's Civil Statutes. Provisions of statutes requiring the selection of a depository every two years are mandatory and must be complied with in all respects. In re Cameron Trust Co., 51 S.W.2d 1025, (Mo.Sup. 1932); Attorney General's Opinion No. O-3837 (1941). Said Attorney General's Opinion states:

"We think the above mentioned statutes and contract itself fix the term of the depository and that such relation continues for such time and cannot be terminated at will by either party to the contract."

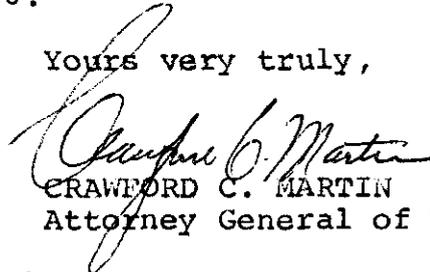
In the above cited Missouri case, at 51 S.W.2d 1026, the court held that the statute required the selection of a depository every two years; that the contract expired at the end of the two year period; "and could not be extended or continued by common consent."

In February of 1970, the present depository was selected by the Bexar County Hospital District for a two year term. It is our opinion that the said Hospital District may not legally select a new depository in October of 1971, or extend the term for the depository until October of 1972.

S U M M A R Y

The Bexar County Hospital District may not change the month of selection of its depository from February to October after the depository was selected for a two year term in February of 1970.

Yours very truly,



CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by Jack Sparks
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Kerns Taylor, Chairman
W.E. Allen, Co-Chairman

John Reeves
W.O. Shultz
Lewis Jones
Bill Corbusier

SAM MCDANIEL
Staff Legal Assistant

ALFRED WALKER
Executive Assistant

NOLA WHITE
First Assistant