



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

**JOHN L. HILL**  
ATTORNEY GENERAL

April 13, 1973

The Honorable Charles F. Herring  
Chairman, Jurisprudence Committee  
Senate of The State of Texas  
Austin, Texas 78711

Letter Advisory No. 9

Re: The scope and validity  
of Senate Bill 183

Dear Senator Herring:

Your letter of March 23, 1973, requests our written opinion as to the constitutionality of Senate Bill 183. Knowing the importance of this legislation to the citizens of Corpus Christi and of Nueces County, we have treated it as expeditiously as we possibly could.

While not naming Corpus Christi as the subject of its provisions, the first section of Senate Bill 183, as designed, would validate a bond election held in that city on December 9, 1972, in which the voters authorized the issuance of tax bonds of the city for the purpose of acquiring buildings and facilities for an upper level college.

The proposed bill is made applicable to any city which:

" . . . has heretofore authorized the issuance of bonds payable from ad valorem taxes for the acquisition of buildings and facilities for an upper level college, and the proposition of issuance of such bonds and the levy of the tax therefor has been submitted to and approved by a majority of the resident, qualified electors . . . "

This language, by itself, is restrictive and probably would make Senate Bill 183 a local or special law.

However, even though enforcement or operation of a statute is to be confined to a restricted area, if it operates upon a subject in which the people of the State at large are interested, it is not unconstitutional as a local or special law. For example, our courts have applied this rule to a state supported medical school and its hospital holding that

it affected people throughout the state. Smith v. Davis, 426 S. W. 2d 827 (Tex., 1968). In our opinion House Bill 183 does not violate § 56 of Article 3.

With respect to the prohibition against retroactive legislation contained in Article 1, § 16 of the Constitution, our courts have made the validity of legislation turn upon whether it impairs vested rights. The facts presented to us and the proposed statute do not indicate that the vested rights of any person will be impaired by its enactment.

Retroactive legislative acts validating bonds unauthorized at the time of their issue, are uniformly upheld. As stated in 47 Tex. Jur. 2d, "Public Securities and Obligations," § 40, p. 373, (with many cited cases in support) validation is simply application of the doctrine of ratification. The Legislature does not make valid the law under which the bonds were issued but validates the bonds themselves because they were not issued according to the provisions of a valid law. Ratification relates back so as to validate all that was done in issuing bonds and levying the assessments to pay for them. In our opinion, Senate Bill 183 does not violate § 16 of Article 1.

The second part of Senate Bill 183 would authorize cities covered by its provisions to acquire buildings and facilities for which the bonds were issued and to convey them, without consideration, to the State of Texas acting through a governing body of a state supported institution of higher learning. It authorizes that governing body to accept the building and facilities.

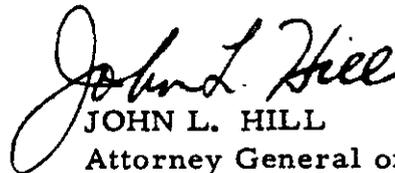
Section 52 of Article 3 prohibits authorization of the use of municipal funds or credit or the granting of municipally owned property for the benefit of an individual, association or corporation. It does not prohibit the granting of credit or public money to the State or an agency of the State. Furthermore, § 52 does not prohibit the grant of funds or property or credit for a public purpose. The operation of a college is a public purpose and it is our opinion that the transaction contemplated by Senate Bill 183 is not prohibited by § 52 of Article 3 of the Constitution of Texas.

In our opinion, Senate Bill 183 is constitutional. We do not pass upon any other questions which may exist having to do with facts not presented to us. Our opinion is supported by the following authorities, among others: City of Fort Worth v. Bobbitt, 121 Tex. 14, 36 S. W. 2d 470

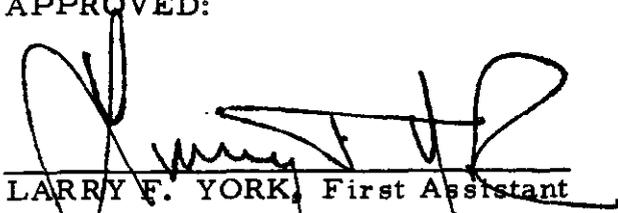
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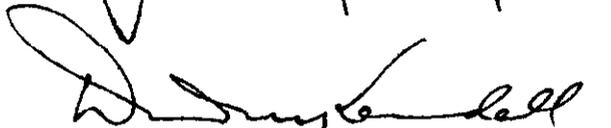
(1931); King v. Sheppard, 157 S. W. 2d 682 (Tex. Civ. App., Austin, 1941, err. ref'd., want of merit); Board of Managers of the Harris County Hospital District v. Pension Board, 449 S. W. 2d 33 (Tex. 1970); Smith v. Davis, 426 S. W. 2d 827 (Tex. 1968); County of Cameron v. Wilson, 326 S. W. 2d 162 (Tex. 1959); State v. City of Austin, 331 S. W. 2d 737 (Tex. 1960); Deacon v. City of Euless, 405 S. W. 2d 59 (Tex. 1966); Texas Water Rights Commission v. Wright, 464 S. W. 2d 642 (Tex. 1971); Inman v. Railroad Commission, 478 S. W. 2d 124 (Tex. Civ. App., Austin, 1972, err. ref., n. r. e.); 47 Tex. Jur. 2d, Public Securities and Obligations, § 40; Garey v. City of Galveston, 42 Tex. 627 (1875); Anderson County Road District v. Pollard, 296 S. W. 1062 (Tex. 1927); Louisiana Railway and Navigation Co. v. State, 298 S. W. 462 (Tex. Civ. App., Dallas, 1927) aff. 7 S. W. 2d 71 (Tex. 1928); Attorney General Opinions H-8 and H-14.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
LARRY F. YORK, First Assistant

  
DAVID M. KENDALL, Chairman  
Opinion Committee