



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

February 17, 1975

The Honorable Tom Hanna
Criminal District Attorney
P. O. Box 2553
Beaumont, Texas 77704

Opinion No. H- 530

Re: May special funds be transferred into a county's general fund under article 8, section 9 of the Texas Constitution and used for other purposes?

Dear Mr. Hanna:

You have requested our opinion concerning the transfer of county funds from the Road and Bridge Tax Fund and the Farm to Market and Lateral Tax Fund to the General Fund and the use of these funds for purposes other than bridges and roads.

The Road and Bridge Fund is provided for in article 8, section 9 of the Texas Constitution, which also establishes the general fund, the permanent improvement fund, and the jury fund. The use of these four funds was formerly limited to the purposes reflected in their titles, and the transfer of money from one fund to another prohibited. Carroll v. Williams, 202 S. W. 504 (Tex. Sup. 1918).

However, the 1967 revision of section 9 provides that "[a]ny county may put all tax money collected by the county into one general fund, without regard to the purpose or source of each tax." This language has been held to overrule the holding of Carroll v. Williams, supra, and to allow money from the Road and Bridge Fund to be transferred to the General Fund and expended for purposes other than roads and bridges. Lewis v. Nacogdoches County, 461 S. W. 2d 514 (Tex. Civ. App. --Tyler 1970, no writ); Attorney General Opinion H-194 (1974).

The Farm to Market Lateral Tax Fund is established in article 8, section 1-a of the Texas Constitution and article 7048a, V. T. C. S. Section 1-a limits the use of the revenue so obtained to "construction and maintenance of Farm to Market Roads or Flood Control . . ." and repayment of tax donations from the state.

The 1967 amendment to section 9 of article 8 provides that "[a]ny county may put all tax money collected by the county into one general fund, without regard to the purpose or source of each tax." While this language could be interpreted to apply to section 1-a funds, the Texas Legislative Council analyzed the amendment as applying to only the four non-voted tax levies contained in section 9. Texas Legislative Council, "6 Proposed Constitutional Amendments Analyzed, (1967)." In addition, this was the construction presented to the public prior to adoption. Consequently, we believe the language of section 9 applies only to the four funds provided for in that section.

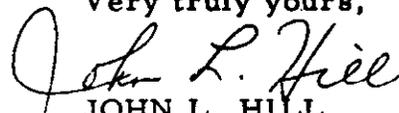
Since section 1-a was revised in 1973 and the limitations on the use of the revenues reenacted, it is our opinion that the reasoning of Carroll v. Williams, supra remains applicable to section 1-a. Thus, it is our opinion that revenues in the Farm to Market Lateral Tax Fund may not be transferred to the General Fund and may not be expended for any purpose other than those provided in section 1-a.

SUMMARY

Revenues in the Road and Bridge Fund may be transferred to the General Fund and expended for any lawful purpose.

Revenues in the Farm to Market Lateral Tax Fund may not be transferred to the General Fund and may be expended only for those purposes provided in article 8, section 1-a of the Texas Constitution.

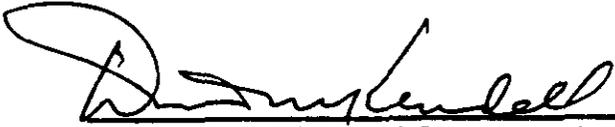
Very truly yours,



JOHN L. HILL

Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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