



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

July 29, 1992

Honorable Carl Parker
Chairman
Education Committee
Texas State Senate
P. O. Box 12068
Austin, Texas 78711

Letter Opinion No. 92-29

Re: Whether the university bookstore at a Texas public university may extend credit to university students for the purpose of purchasing textbooks and supplies (RQ-390)

Dear Senator Parker:

You have requested our opinion on whether a university bookstore at a Texas public university may extend credit to university students for the purpose of purchasing textbooks and supplies. You explain that several state universities, including the University of Texas at Arlington, allow students to charge purchases of textbooks and supplies with a valid student identification card. The bookstore bills the students later in the semester for the charges.

You specifically ask about the applicability of article III, section 50 of the Texas Constitution, which states as follows:

The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

See generally 1 G. BRADEN, THE CONSTITUTION OF THE STATE OF TEXAS: AN ANNOTATED AND COMPARATIVE ANALYSIS 224-26 (1977). In Attorney General Opinion JM-1229 (1990), this office interpreted article III, section 50 as prohibiting a governmental body from lending credit for private purposes. *See* Attorney General Opinion JM-1229 at 5. That opinion concluded, however, that article III, section 50 does not prohibit a governmental body from lending credit if the loan of credit will accomplish public purposes, and if the governmental body places

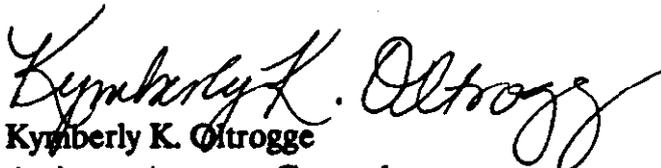
sufficient controls on the transaction to ensure that the public purpose is carried out. *Id.* at 6; *see also* Attorney General Opinions JM-1255 at 2-3, JM-1194 at 2 (1990). Accordingly, the university bookstore of a Texas public university may extend credit to university students only if such a practice will accomplish a public purpose and if the bookstore places sufficient controls on the transaction to ensure that the public purpose will be carried out. *See* Attorney General Opinion JM-1229 at 6.

As this office noted in Attorney General Opinion JM-1229, "The determination that a particular extension of credit meets the constitutional requirements is in the first instance within the sound discretion of the governing body, subject to judicial review." *Id.* at 6-7. Thus, the university should determine in the first instance whether the university bookstore's extension of credit serves a public purpose. In addition, the university must place sufficient controls on the credit transactions to ensure that the public purpose will be carried out. The university bears the responsibility of determining in the first instance the kinds of controls which sufficiently will ensure that the public purpose is carried out. If the university makes such findings, it may continue to extend credit for the purchase of textbooks and schools supplies. The sufficiency of the the university's findings are, of course, subject to challenge in the courts. This committee cannot say as a matter of law that the university's extension of credit serves a public purpose, or that the university has imposed sufficient controls on the transactions.

S U M M A R Y

The university bookstore at a Texas public university may extend credit to its students for the purpose of purchasing textbooks and supplies if such an extension of credit accomplishes a public purpose and if the university places sufficient controls on the transaction to ensure that the public purpose will be carried out.

Yours very truly,


Kimberly K. Oltrogge
Assistant Attorney General
Opinion Committee