



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

February 3, 1954

Trinity I. S. D.
w. Walker Co. 287 S. W.)2d) 717
Opinion V-93, affirmed & sustained

Hon. R. H. Dent
County Attorney
Sabine County
Hemphill, Texas

Opinion No. S-121

Re: Reconsideration of Opinion
V-93 relative to distribu-
tion of national forest
receipts among the school
districts of the county.

Dear Mr. Dent:

You have asked us to reconsider Attorney General's Opinion V-93 (1947) which construes Article 2351b-4, Vernon's Civil Statutes. That article provides:

"Whereas Congress has heretofore passed a law which provides that thereafter twenty-five per centum (25%) of all moneys received during any fiscal year from each national forest shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said forest is situated to be expended as the State or Territorial Legislature may prescribe for the benefit of the public schools and the public roads of the county or counties in which the national forest is situated, and whereas the Legislature of the State of Texas has not prescribed any method for prorating said funds, now, therefore, be it enacted that the Commissioners Courts of the counties in Texas in which such national forests are situated are hereby authorized to prorate all such funds received and to be received from the Federal Government for timber and all other income derived from such lands as follows:

"Fifty per cent (50%) of such money received shall be allocated to the school districts in proportion to the area in said district, and fifty per cent (50%) of same to

the county for the benefit of the public roads in said county. Provided the Commissioners Court may transfer the fifty per cent (50%) received by said Court to the school districts."

It is the obvious intention of the Congress and the Legislature to provide the funds above described in lieu of the taxes lost to the counties and school districts in which tax-exempt Federal Government forest lands are located.

Forest lands owned by the Federal Government are exempt from the tax levies of the counties and school districts embracing such lands. The funds provided above by the Congress and the Legislature obviously are intended to recoup the counties and school districts in part for the taxable values deprived them by the exemption. Att'y Gen. Op. V-543 (1948). In the same manner that the funds are prorated only to the counties in which such national forests are situated, so also was it intended to be prorated only to the school districts in which such national forests are situated. The fifty per cent of such money allocated to the school districts should be prorated to each district in the proportion that the forest area in the district bears to the total forest area within the county. Consequently, a school district which has no national forest land within its boundaries is not entitled to participate in the funds appropriated by Congress for payment to school districts losing tax money on exempt land. Since Attorney General's Opinion V-93 (1947) is in conflict with the holding herein, it is expressly overruled.

SUMMARY

National forest receipts received by a county under Article 2351b-4, V.C.S., for public school purposes, should be prorated and transferred to the school districts within the county in proportion to the

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national forest area in each district in relation to the total national forest area within the county. Attorney General's Opinion V-93 (1947) is overruled.

Yours very truly,

APPROVED:

J. C. Davis, Jr.
County Affairs Division

W. V. Geppert
Reviewer

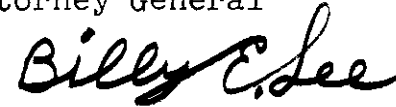
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By



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